1998

Illinois Register

Rules of Governmental Agencies

Volume 22, Issue 51—December 18, 1998

Pages 21,765 – 22,157

Index Department
Administrative Code Div.
111 East Monroe Street
Springfield, IL 62756
(217) 782-7017
http://www.sos.state.il.us

Printed on recycled paper

published by

George H. Ryan
Secretary of State

TABLE OF CONTENTS

December 18, 1998 Volume 22, Issue 51

PROPOSED RULES

ADOPTED RULES

Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

April	17, 1998 - Issue 16: Through	March	31, 1998
July	17, 1998 - Issue 29: Through	June	30, 1998
October	16, 1998 - Issue 42: Through	September	30, 1998
January	15, 1999 - Issue 3: Through	December	31, 1998 (Annual)

REGISTER PUBLICATION SCHEDULE 1998

Material Rec'd before 4:30 p.m. on:	Will be in Issue #:	Published on:
July 13, 1998	30	July 24, 1998
July 20, 1998	31	July 31, 1998
July 28, 1998	32	Aug. 7, 1998
Aug. 3, 1998	33	Aug. 14, 1998
Aug. 10, 1998	34	Aug. 21, 1998
Aug. 17, 1998	35	Aug. 28, 1998
Aug. 24, 1998	36	Sept. 4, 1998
Aug. 31, 1998	37	Sept. 11, 1998
Sept. 8, 1998*	38	Sept. 18, 1998
Sept. 14, 1998	39	Sept. 25, 1998
Sept. 21, 1998	40	Oct. 2, 1998
Sept. 28, 1998	41	Oct. 9, 1998
Oct. 5, 1998	42	Oct. 16, 1998
Oct. 13, 1998*	43	Oct. 23, 1998
Oct. 19, 1998	44	Oct. 30, 1998
Oct. 26, 1998	45	Nov. 6, 1998
Nov. 2, 1998	46	Nov. 13, 1998
Nov. 9, 1998	47	Nov. 20, 1998
Nov. 16, 1998	48	Nov. 30, 1998
Nov. 23, 1998	49	Dec. 4, 1998
Nov. 30, 1998	50	Dec. 11, 1998
Dec. 7, 1998	51	Dec. 18, 1998
Dec. 14, 1998	52	Dec. 28, 1998
Dec. 21, 1998	1	Jan. 4, 1999
Dec. 28, 1998	2	Jan. 8, 1999

***Please note: If the state holiday falls on a Monday, the deadline will be 12 noon on Tuesday (the next day).**

Printed by authority of the State of Illinois
December 1998 – 700 – GA-471

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Public Museum Financial Support

2) Code Citation: 23 Ill. Adm. Code 3200

3)

Section Number:	Proposed Action:
3200.5	Amend
3200.10	Amend
3200.15	New
3200.18	New
3200.20	Amend
3200.30	Repeal
3200.40	Amend
3200.50	Amend
3200.55	New
3200.60	New
3200.65	New
3200.70	New
3200.80	New
3200.100	New
3200.110	New
3200.120	New
3200.130	New
3200.140	New
3200.150	New
3200.160	New
3200.170	New

4) Statutory Authority: Implemented and authorized by Section 1-25(22) of the Department of Natural Resources Act [20 ILCS 801/1-25(22)].

5) A Complete Description of the Subjects and Issues Involved: This is a grant program to enhance the capital facilities and educational programs of eligible public museums.

6) Will this proposed rule replace emergency rules currently in effect? Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendments contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The proposed amendments will have no impact upon units of local government and contain no mandates for local governments.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

the publication of this notice to:

Stanley Yonkauski, Jr., Legal Counsel
Illinois Department of Natural Resources
524 South Second Street
Springfield IL 62701
(217)782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None. Museum not-for-profit corporations and municipalities which operate museums may be eligible for grant funding.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: Museums that meet the eligibility criteria to apply for a grant must have at least one paid employee who has special knowledge related to museological, zoological, aquarium or botanical organizations.

13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE B: CULTURAL RESOURCES
CHAPTER II: DEPARTMENT OF NATURAL RESOURCES

PART 3200
PUBLIC MUSEUM GRANTS PROGRAM ~~FINANCIAL SUPPORT~~

SUBPART A: CAPITAL GRANTS PROGRAM

SUBPART B: PUBLIC MUSEUM OPERATING GRANT RULES

AUTHORITY: Implementing and authorized by Section 1-25(22) of the Department of Natural Resources Act [20 ILCS 801/1-25(22)].

SOURCE: Emergency rule adopted at 3 Ill. Reg. 11, p. 18, effective March 1, 1979, for a maximum of 150 days; adopted at 4 Ill. Reg. 18, p. 113, effective April 22, 1980; amended at 5 Ill. Reg. 5649, effective May 18, 1981; codified at 8 Ill. Reg. 1448; amended at 10 Ill. Reg. 4536, effective February 28, 1986; recodified from the Department of Energy and Natural Resources to the Department of Natural Resources at 22 Ill. Reg. 11230; emergency amendment at 22 Ill. Reg. 17381, effective September 17, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. _____, effective December 3, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. _____, effective _____.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

SUBPART A: CAPITAL GRANTS PROGRAM

Section 3200.5 Authority

For the purpose of determining eligibility of Illinois public museums, as defined in Section 1-25(22) of the Department of Natural Resources Act [20 ILCS 801/1-25(22)] ~~3(b)(22) of "An Act in relation to natural resources, research, data collection and environmental studies" (Ill. Rev. Stat. 1983, ch. 96 1/2, par. 7403(b)(22))~~, so that such museums may qualify for support under Public Act 80-218 ("Act"), this Part is promulgated.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 3200.10 Definitions

"Applicant" means a public museum which makes an application to the Department pursuant to this Part.

"Capital Expenditure" means an outlay of capital that results in the acquisition of property or permanently improves its value or usefulness. For purposes of this program, capital expenditures include, but are not limited to, one or more of the following: land and building acquisition; demolition (in preparation for additional work); site preparation and improvement; utility work; new construction, rehabilitation, major renovations, or expansion of buildings and structures; original furnishings and equipment; replacement of currently utilized assets by a better asset including permanent exhibits; and any other work that significantly increases the service potential of a building, structure, or exhibit as well as necessary project management fees and associated architectural planning and engineering design services. Acquisition of museum collections, objects, or specimens are not considered capital expenditures.

"Care ~~Care(s)~~" means the keeping of adequate records pertaining to the provenance, identification and location of the museum's holdings, and the application of current professionally accepted methods to their security and to the minimization of damage and deterioration.

"Community" means the population base normally served by the museum.

"Department" means the Illinois Department of Natural Resources.

"Director" means the Director of the Department.

"Matching Funds" means local government and/or private funds equal to at least two-thirds of the incurred capital expenditures considered

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

integral to the overall approved grant project scope. Matching funds cannot include federal or other State funds.

"Nonprofit" means that the applicant has documentary evidence of its tax-exempt status under the regulations of the U.S. Internal Revenue Service.

~~"Operating Expenditures" means funds actually expended by an applicant for the recurring day to day expenses which are ordinary and necessary to maintain and operate the facility for its principal purpose as a public museum.~~

"Organized" means that the applicant is a duly constituted body with expressed responsibilities.

"Permanent" means that the applicant has existed for at least 2 ~~two~~ years and is expected to continue in perpetuity.

"Professional Staff" means that the applicant has at least one paid employee, who commands an appropriate body of special knowledge and the ability to reach museological, zoological, ~~or~~ aquarium, or botanical (whichever shall be applicable) decisions consonant with the experience of his or her peers, and who has access to and acquaintance with the literature of the field, and that such employee works sufficient hours to meet adequately the current demands of administration and care.

"Public Museum" means a facility operating for the purpose of acquiring, conserving, preserving, studying, interpreting, enhancing, and, in particular, organizing and continuously exhibiting tangible objects to the public for its instruction and enjoyment, and is operated by or located upon land owned by a unit of local government.

~~"Public Museum" means a facility operating for the purpose of acquiring, conserving, preserving, studying, interpreting, enhancing, and, in particular, organizing and continuously exhibiting tangible objects to the public for its instruction and enjoyment, and is operated by or located upon land owned by a unit of local government.~~

"Schedule" means regular and predictable hours which constitute substantially more than a token opening, so that access is reasonably convenient to the public.

"Tangible Objects" means specimens, artifacts, articles, documents; non-domesticated plants or animals, including fish; and other things of historical, anthropological, archeological, industrial, scientific or artistic import that form the applicant's collections and have intrinsic value to history, science, art or culture.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

~~"Tangible Objects" means specimens (including, but not limited to, specimens of non-domesticated animals and fish), artifacts, articles, documents, non-domesticated plants or animals, including fish, and other things of historical, anthropological, archeological, industrial, scientific or artistic import which form the applicant's collections and have intrinsic value to history, science, history, art or culture.~~

"Unit of Local Government" means counties, municipalities, townships, special districts and units, designated as units of local government by Illinois law, which exercise limited governmental power or powers in respect to limited governmental subjects, but does not include school districts.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 3200.15 Purpose

The Public Museum Capital Grants Program is designed to help public museums in Illinois expand and upgrade facilities and create new exhibits and other physical facilities to enhance the public museums' ability to meet their educational mission. The program provides up to 33 1/3% funding assistance on a reimbursement basis to eligible applicants for approved capital expenditures on public museum facilities.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 3200.18 Prerequisite Five-Year Plan

a) To administer and effectively grant capital funds that will improve the educational potential of the State's museums, the Department requires that public museums that plan to participate in the Capital Grants Program during FY99 submit an institutional, 5-year capital plan. Such plan may be modified annually as necessitated by changes in the priorities of the museums.

b) Institutions that do not submit an application the first year of the program but that intend to submit an application in succeeding years (FY2000 through 2003), must submit in FY99 a letter of intent and a five-year capital plan as described in subsection (a).

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 3200.20 Eligibility Criteria ~~for Applicant Facilities~~

Any public museum located in Illinois shall be eligible for grants for capital

purposes ~~financial support of its operating expenditures~~ if it establishes to the reasonable satisfaction of the Director that:

a) It is an organized, permanent ~~and non-profit~~ institution that is tax exempt under the regulations of the U.S. Internal Revenue Service;

b) It has a professional staff;

c) It cares for and owns or utilizes tangible objects;

d) It conducts activities of the kind described in Public ~~the~~ Act 90-604 during the normal and continuous course of its operations;

e) It is open to the public on a regular schedule; ~~and~~

f) It devotes the majority of its floor space or grounds and professional staff effort to museological purposes.

g) It is operated by or located upon land owned by a unit of local government; and

h) It can match a State grant with $2 of local or private support for each $1 of State money.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 3200.30 Funding Determination (Repealed)

~~a) Contribution Amount. Each applicant which is eligible for financial assistance pursuant to this Part shall receive an amount of contribution which is the greater of the following two amounts:~~

~~1) A minimum amount representing 0.1% (one tenth of one percent) of the total annual appropriation to the Department for distribution under the Act; or~~

~~2) A proportionate amount equal to the fraction obtained by dividing the applicant's operating expenditures by the aggregate operating expenditures of all eligible applicants.~~

~~b) Allocation Procedure. A contribution amount shall be determined by the following sequence of procedures:~~

~~1) The total operating expenditures of each applicant during its two fiscal years preceding its application shall be divided by 2 (two) in order to determine the amount of average operating expenditures of each applicant;~~

~~2) The average operating expenditures of all eligible applicants shall be added together in order to determine the amount of aggregate operating expenditures of all applicants;~~

~~3) The average operating expenditures of each applicant shall be divided by the aggregate operating expenditures of all applicants in order to determine the allocation fraction of each applicant:~~

~~A) If the allocation fraction is less than or equal to 0.1%, the applicant shall be awarded the minimum amount pursuant to paragraph (a)(1) above; or~~

~~B) If the allocation fraction is greater than 0.1%, procedures (b)(1), (2) and (3) above shall be repeated in order to determine a revised allocation fraction for each applicant (except those which otherwise qualify for the minimum amount);~~

~~4) The total amount of minimum contributions to eligible applicants (as determined by (a)(1) above) shall be subtracted from the total amount of annual appropriations in order to determine the amount of remaining appropriations; and~~

~~5) The amount of remaining appropriations shall be multiplied by the revised allocation fraction of each applicant in order to determine the proportionate amount that will be contributed by the Department to each applicant (except those which otherwise qualify for the minimum amount).~~

~~c) Operating Expenditures. For purposes of this Part, the amount of operating expenditures, as heretofore defined, shall be derived by the applicant from the total amount of program and supporting services expense which is reported on its audited financial statement. However, to accommodate variations among applicants in accounting methods and expense descriptions on the financial statements, each applicant shall examine its financial statements in conformity with paragraphs (1) and (2) below.~~

~~1) Operating expenditures may specifically include the following or similar type of expenses:~~

~~A) Capital expenditures from current unrestricted accounts, or, in the alternative, an amount for the amortization or depreciation of such capital expenditures, and any other expenditures from current unrestricted accounts which are ordinary and necessary for the applicant's routine day to day operations;~~

~~B) All expenditures from current restricted accounts which qualify as operating expenditures as defined under "Operating Expenditures" in Section 3200.10, but excluding any capital expenditures listed in paragraph (c)(2) below. For example, expenditures related to the development of museum exhibitions and displays may be included even if made from a fund which is limited for this purpose. Expenditures from restricted accounts for preliminary planning or schematic design work are also allowable, including architectural, engineering, design, and consultant fees related to routine maintenance or rehabilitation;~~

~~C) Direct expenditures made on behalf of the applicant by an affiliated entity, provided that they are ordinary and necessary for the day to day operations of the applicant and are separately itemized and verified in writing by the affiliated entity. As used in this subparagraph, "direct expenditures" means expenditures which are identified specifically with the applicant and which costs are incurred by the affiliated entity only for the applicant;~~

~~B) Expenditures for movable equipment and other types of personal property, or, in the alternative, an amount for the~~

~~amortization or depreciation of such personal property; and~~

~~E) interest expenses on funds borrowed by the applicant to finance expenditures which are otherwise allowable under this Part.~~

~~2) Operating expenditures shall not include any of the following or similar type of expenses:~~

~~A) Transfers made to or between the applicant's accounts or funds;~~

~~B) Losses or other costs associated with loans and/or investments made by the applicant;~~

~~C) Expenses for the direct and indirect costs of programs operated by the applicant which are unrelated or only remotely related to museological purposes. For example, the costs of salaries, equipment, facilities and other direct and indirect costs of a school with a regular curriculum which is run by the applicant are not allowable;~~

~~D) Expenses for field trips and other educational programs offered by the applicant to the extent that the costs are recovered from or paid by a participating traveler or student;~~

~~E) Capital expenditures from restricted accounts, including but not limited to:~~

~~i) real property;~~

~~ii) buildings, additions and/or structures (including site development and associated fixed equipment);~~

~~iii) extensive remodeling and/or rehabilitation work or site improvement; and~~

~~iv) utilities lines fees, tapping fees, meter fees and other expenses not related to normal daily consumption;~~

~~F) Expenditures for repayment of principal on funds borrowed by the applicant.~~

~~3) If the amount of operating expenditures claimed by the applicant under this Part is not the same as a reported expense amount on the audited financial statement, the applicant shall prepare a detailed written explanation in order to reconcile the two. This explanation shall describe the amount and purpose of each expense added to or subtracted from the amount reported.~~

~~d) Before making a determination of the amount of contribution which the applicant shall receive under this Part, the Department shall deduct from the average operating expenditures of each applicant the average amount of any contributions which were awarded to the applicant under the Act for its use during each of the two years preceding the application.~~

~~e) The Director shall determine and approve the amount that each eligible applicant receives as contribution under this Part.~~

(Source: Repealed at 23 Ill. Reg. _____, effective

_____)

Section 3200.40 Application Procedure

a) Any applicant seeking a grant for capital purposes in the current year ~~financial contribution under this Part~~ shall send 5 ~~(five)~~ copies of a completed application supplied by ~~each of the following documents to the Director of~~ the Department of Natural Resources that includes: ~~, c/o Illinois State Museum, Spring and Edwards Streets, Springfield, Illinois 62706, Attention: Museum Aid Program.~~

1) General Information Application Form that includes:

A) background on the applicant;

B) description of the proposed project; and

C) museum operations information.

2)~~1)~~ A Certification Statement ~~notarized letter of application~~ executed by the chief executive officer of the institution which certifies that the applicant:

A) maintains its tax-exempt status under the regulations of the U.S. Internal Revenue Service; and

B) is operated by or located upon land which is owned by a unit of local government; and

C) has at least 50% of the matching funds and/or documented commitment pledges required to match the grant ($2 private/local to $1 State) at the time the application is submitted. ~~accurately determined the amount of operating expenditures which are identified on Attachment B of the application; and~~

~~D) has and will continue to use any contributions received pursuant to the Act only for operating and/or capital expenditures.~~

3)~~2)~~ A five-year capital plan for the applicant institution that includes: ~~completed information form shall be appended to the application, as Attachment A.~~

A) identifiable projects with brief scope statements that permit a reviewer to understand the nature of the project;

B) a schedule showing projected dates for planning, implementation, and completion of identified projects;

C) a budget showing cost estimates for projects identified in the capital pan; and

D) identification of the project for which State funds are being sought.

4)~~3)~~ A set of conceptual plans including project scope, cost, and construction schedule. ~~The annual report of the applicant for the year preceding its application. (Provide as Attachment B.)~~

5)~~4)~~ A description of how the project will improve the institution's ability to meet its educational mission and expand its audiences (limit 2, single-spaced printed pages, minimum font size 12 pt). ~~The audited financial statements of the applicant prepared by a~~

~~certified public accountant for the two years preceding the applicant's application and the written reconciliation statement if required by Section 3200.30(c)(3). (Provide as Attachment C.)~~

6) The annual report of the applicant for the year preceding its application.

~~5) A written statement signed by the applicant's chief financial officer which states that the amount of operating expenditures claimed in accordance with Section 3200.30(c) is accurate and complies with this Part.~~

b) Any applicant seeking a grant for capital purposes in the years FY2000 through 2004 shall submit 5 copies of the letter of intent accompanied by copies of the institution's 5-year capital plan. A letter of intent shall address: ~~An application shall be made between January 1 and March 30 of each year when appropriations have been made available to the Department for distribution under this Part.~~

1) The year an applicant plans to submit a proposal for funding.

2) A brief scope statement from the institution's 5-year capital plan identifying the project that will be proposed for funding and its projected cost.

c) Applicants may submit only one application for any given year.

d) Projects may be phased over multiple years with the approval of the Department.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 3200.50 Application Schedule ~~Use of Grant Funds~~

Applications for funding assistance will be accepted each year on a schedule announced publicly by the Department when appropriations have been made available for distribution under this program. Specific application guidelines will be available from the Department at that time. ~~Once received, the recipient may use the grant funds for operating and/or capital expenditures.~~

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 3200.55 Criteria for Selection

Applications will be reviewed by the Department based on the following criteria:

a) Technical Criteria

1) Documentation of required match (prerequisite) and, if applicable, a plan for raising additional required funds.

2) Adequacy of cost estimates and other feasibility considerations, including the capacity to meet associated operating costs of the project and the qualifications of current and future personnel involved with the project and its implementation.

3) Project's impact on applicant's 5-year capital plan.

4) Applicant meets generally accepted professional standards (as in the accreditation programs of the American Association of Museums, American Zoo and Aquarium Association, American Association of Botanical Gardens and Arboretums, and other appropriate organizations).

b) Program Criteria

1) Project's potential to enhance the applicant's implementation of its educational mission.

2) Project's potential for meeting community needs and expanding audiences, including reaching underserved audiences.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 3200.60 Review Procedure

a) Technical Review
Department staff will review the project application materials for:

1) Project's feasibility with regard to operational capacities of the institution.

2) Adequacy of cost estimates and construction schedule estimates.

3) Evidence of required match and, if applicable, of capacity to raise additional funds needed.

4) Project's relative role in applicant's 5-year capital plan.

5) Timeliness and completeness of application.

6) Evidence that applicant meets generally accepted professional standards (as in the accreditation programs of the American Association of Museums, American Zoo and Aquarium Association, American Association of Botanical Gardens and Arboretums, and other appropriate organizations).

b) Program Review
Department staff will review the project's merit for:

1) meeting community needs;

2) effectively enhancing the implementation of the educational mission; and

3) expanding audiences, including reaching underserved groups.

c) Staff Recommendation
Department staff will evaluate and rank proposals based on criteria outlined above, and recommend to the Director priorities for funding.

d) Peer Review Panel

1) The Director will appoint a panel of 5 citizens with backgrounds and experience relevant to the activities of museums and their educational contributions who will review proposals and staff recommendations and then make recommendations for funding to the Director. Such citizens shall not be current employees of any museums in the State of Illinois that are eligible to apply for this grant program. The Director shall have the authority to

call upon the expertise of non-residents of the State for additional advice on the program and its administration.

2) Names of candidates for the peer review panel will be solicited annually from museums throughout Illinois.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 3200.65 Awards

Award Limit. An applicant may receive an amount not to exceed 20% of the annual appropriation, excluding funds that may be reappropriated from a preceding year.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 3200.70 Multiple-Year Considerations

a) Phased Projects
Applicants may apply for funding for the same project over multiple years if the project has been selected for funding and a multiple-year plan approved in advance by the Department.

b) Reappropriation of Funds
Reappropriation of funds will be sought for projects approved for funding that have not been completed and reimbursement sought in the fiscal year in which the project was approved.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 3200.80 Process for Payment

a) Eligible Expenses are defined as:
   1) Expenses that meet the definition of capital expenditures; and
   2) Expenses that are pursuant to the scope of work as agreed upon and approved during the technical review process by the Department. The State's one-third match on an approved project can only be used for capital expenditure costs incurred after July 1, 1998.

b) Applicants who have been awarded capital grants must submit a certified project billing request (expenditure statement) listing/verifying all funds expended on the project for which grant reimbursement is sought, as well as required billing documentation, as follows:
   1) Acquisition of Property: Proof of good faith negotiations or fair market value offer to land seller, copy of warranty deed (Judgment Order in case of condemnation and title insurance for

any deed less than warranty) showing ownership transferred to the local project sponsor, and copies of documents showing proof of payment to seller.

2) Development of Permanent Improvements: Copy of receipts/invoices for project costs, and copy of documents showing proof of payment.

(Source: Added at 23 Ill. Reg. _____, effective _____)

SUBPART B: PUBLIC MUSEUM OPERATING GRANT RULES

Section 3200.100 Definitions

"Applicant" means a public museum that makes an application to the Department pursuant to this Part.

"Care" means the keeping of adequate records pertaining to the provenance, identification and location of the museum's holdings, and the application of current professionally accepted methods to their security and to the minimization of damage and deterioration.

"Community" means the population base normally served by the museum.

"Department" means the Illinois Department of Natural Resources.

"Director" means the Director of the Department.

"Museum Education Program" means utilizing the resources of the museum for formal or informal learning opportunities for school children, teachers, or other citizens through face to face interactions or through educational technology, including educational technology partnerships.

"Nonprofit" means that the applicant has documentary evidence of its tax-exempt status under the regulations of the U.S. Internal Revenue Service.

"Organized" means that the applicant is a duly constituted body with expressed responsibilities.

"Permanent" means that the applicant has existed for at least 2 years and is expected to continue in perpetuity.

"Professional Staff" means that the applicant has at least one paid employee who devotes the preponderance of his/her time to offer "Museum Education Programs." This person is expected to command an appropriate body of special knowledge in museum education consonant

with the experience of his or her peers, and to have access to and acquaintance with the literature of the field, and to work sufficient hours to meet adequately the current demands for museum educational services.

"Public Museum" means a facility operating for the purpose of acquiring, conserving, preserving, studying, interpreting, enhancing, and, in particular, organizing and continuously exhibiting (subject to temporary interruption due to construction or catastrophe) tangible objects to the public for its instruction and enjoyment, and is operated by or located upon land owned by a unit of local government or has an annual attendance of at least 150,000 and offers educational programs to school groups during school hours.

"Schedule" means regular and predictable hours that constitute substantially more than a token opening, so that access is reasonably convenient to the public (subject to temporary interruption due to construction or catastrophe).

"Tangible Objects" means specimens, artifacts, articles, documents; non-domesticated plants or animals, including fish; and other things of historical, anthropological, archeological, industrial, scientific or artistic import that form the applicant's collections and have intrinsic value to history, science, art or culture.

"Unit of Local Government" means counties, municipalities, townships, special districts and units, designated as units of local government by Illinois law, that exercise limited governmental power or powers in respect to limited governmental subjects, but does not include school districts.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 3200.110 Purpose

The Public Museum Operating Grants Program is designed to improve and enhance the capacity of public museums with established educational programs to more effectively utilize their museum resources to supplement the learning process of Illinois school children. The program is designed to support formal or informal learning opportunities for school children, teachers, or other citizens through face to face interactions or through educational technology, including education partnerships.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 3200.120 Eligibility Criteria for Applicant Facilities

Any public museum located in Illinois shall be eligible for financial support for its museum education program if it establishes to the reasonable satisfaction of the Director that:

a) It is an organized, permanent institution that is tax exempt under the regulations of the U.S. Internal Revenue Service;
b) It is operated by or located upon land owned by a unit of local government or has an annual attendance of at least 150,000 and offers educational programs to school groups during school hours;
c) It has a professional staff;
d) It cares for and owns or utilizes tangible objects;
e) It conducts during the normal and continuous course of its operations activities of a "Public Museum";
f) It is open to the public on a regular schedule;
g) It devotes the majority of its floor space or grounds and professional staff effort to museological purposes; and
h) It has an established Museum Education Program.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 3200.130 Application Procedure

Any applicant seeking financial assistance under this Part shall send 5 copies of each of the following documents to the Illinois Department of Natural Resources, Illinois State Museum, Spring and Edwards Streets, Springfield IL 62706-5000, Attention Public Museum Operating Grants:

a) A general information Application form supplied by the Illinois Department of Natural Resources;
b) A narrative statement describing the applicant's museum education program and how the financial assistance will enhance the applicant's museum education program;
c) A brochure describing educational offerings or school services (if available);
d) A statement describing the qualifications of the educator in charge of the program (including a curriculum vitae);
e) The annual report of the applicant for the year preceding its application;
f) A certification statement executed by the chief executive officer of the institution that certifies that the applicant:
    1) is an organized, permanent institution that is tax exempt under the regulations of the U.S. Internal Revenue Service;
    2) is either operated by or located upon land owned by a unit of local government, OR has an annual attendance of at least 150,000 and offers educational programs to school groups during school hours;
    3) has a professional staff;
    4) cares for and owns or utilizes tangible objects;
    5) conducts activities during the normal and continuous course of

its operations of a "Public Museum";
6) is open to the public on a regular schedule;
7) devotes the majority of its floor space or grounds and professional staff effort to museological purposes;
8) has an active museum education program; and
9) will use the award to enhance the recipient's museum education program;

g) A certification statement signed by the applicant's chief financial officer that states that the amount of operating expenditures claimed in accordance with Section 3200.160 of this Part is accurate and complies with this Part;

h) The audited financial statements of the applicant prepared by a certified public accountant for the 2 years preceding the applicant's application and the written reconciliation statement as required by Section 3200.160(c)(3) of this Part;

i) An audit statement from an affiliated entity, OR a letter of certification listing expenditures and signed by an official of the affiliated entity if expenditures have been made by the affiliate on behalf of the applicant and claimed by the applicant as operating expenditures.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 3200.140 Application Schedule

Applications for funding assistance will be accepted each year on a schedule announced publicly by the Department when appropriations have been made available for distribution under this program. Specific application guidelines will be available from the Department at that time.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 3200.150 Review Procedure

Submissions from museums will be reviewed to ensure that:

a) the applicant has met the eligibility criteria;

b) the applicant has an established museum education program and that financial assistance from the Museum Operating Grants Program will support a project that will improve and enhance the museum education program; and

c) the applicant meets generally accepted professional standards (as in the accreditation programs of the American Association of Museums, American Zoo and Aquarium Association, American Association of Botanical Gardens and Arboretums, and other appropriate organizations).

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 3200.160 Method for Awarding Grants

a) Contribution Amount - Each eligible applicant for financial assistance pursuant to this Part may receive financial assistance in an amount determined by the following formula:
1) A proportionate amount equal to the fraction obtained by dividing the applicant's average operating expenditures by the aggregate operating expenditures of all eligible applicants, except that:
A) No qualifying museum may receive more than 10% of the total appropriation.
B) Except as provided in subsection (a)(3) below, no qualifying museum may receive less than 0.2% of the total appropriation.
2) In the event there is a balance left after the awards have been computed, the surplus will be allocated to museums on a prorated basis. The surplus balance shall be allocated proportionately to those museums not receiving the minimum or maximum awards from the initial computations. No museum may receive more than 10% of the total appropriation.
3) In the event there is a deficit after the awards have been computed, the amount of the deficit will be prorated against all awards. The amount of deficit prorated to each award will be calculated by taking the initial award allocations as calculated above, including the adjustments for minimums and maximums divided by the aggregate awards to determine the allocation fraction and applying it to the deficit. The result will be subtracted from the initial award amount.

b) Allocation Procedure - A contribution amount shall be determined by the following sequence of procedures:
1) The total operating expenditures of each applicant during its 2 fiscal years preceding its application shall be divided by 2 in order to determine the amount of average operating expenditures of each applicant;
2) The average operating expenditures of all eligible applicants shall be added together in order to determine the amount of aggregate operating expenditures of all applicants;
3) The average operating expenditures of each applicant shall be divided by the aggregate operating expenditures of all applicants in order to determine the allocation fraction of each applicant:
A) If the allocation fraction is more than 10% of the total appropriation, the award will be adjusted as required in subsection (a)(1)(A).
B) If the allocation fraction is less than 0.2% of the total appropriation, the award will be adjusted as defined in subsection (a)(1)(B).

c) Operating Expenditures - For purposes of this Part, the amount of operating expenditures, as heretofore defined, shall be derived by the applicant from the total amount of program and supporting services expense that is reported on its audited financial statement. However, to accommodate variations among applicants in accounting methods and expense descriptions on the financial statements, each applicant shall examine its financial statements in conformity with subsections (c)(1) and (2).

1) Operating expenditures may specifically include the following or similar type of expenses:

A) Expenditures from restricted and unrestricted accounts that are ordinary and necessary for the applicant's routine day-to-day operations, including salaries and benefits, products and services, and routine maintenance and repairs. Restricted funds are those whose use is restricted by outside agencies or persons as contrasted with funds over which the organization has complete control and discretion. Unrestricted funds are those that have no external restriction on their use or purpose, that is, funds that can be used for any purpose designated by the governing board as distinguished from funds restricted externally for specific purposes (for example, operations, plant, and endowment).

B) Capital expenditures from current unrestricted accounts or, in the alternative, an amount for the amortization or depreciation of such capital expenditures.

C) All expenditures from current restricted accounts that qualify as operating expenditures as defined under this subsection (c). Excluded from operating expenses are the capital expenditures listed in subsection (c)(2)(E). For example, expenditures related to the development of museum exhibitions and displays may be included even if made from a fund that is limited for this purpose. Expenditures from restricted accounts for preliminary planning or schematic design work are also allowable, including architectural, engineering, design, and consultant fees related to routine maintenance or rehabilitation.

D) Direct expenditures made on behalf of the applicant by an affiliated entity, provided that they are ordinary and necessary for the day-to-day operations of the applicant and are separately itemized and verified in writing by the affiliated entity. As used in this subsection (c)(1)(D), "direct expenditures" means expenditures that are identified specifically with the applicant and are incurred by the affiliated entity only for the applicant.

E) Expenditures for movable equipment and other types of personal property or, in the alternative, an amount for the amortization or depreciation of such personal property.

F) Interest expenses on funds borrowed by the applicant to finance expenditures that are otherwise allowable under this Part.

2) Operating expenditures shall not include any of the following or similar types of expenses:

A) Transfers made to or between the applicant's accounts or funds;

B) Losses or other costs associated with loans and/or investments made by the applicant;

C) Expenses for the direct and indirect costs of programs operated by the applicant that are unrelated or only remotely related to museological purposes. For example, the costs of salaries, equipment, facilities and other direct and indirect costs of a school with a regular curriculum that is run by the applicant are not allowable;

D) Expenses for field trips and other educational programs offered by the applicant to the extent that the costs are recovered from or paid by a participating traveler or student;

E) Capital expenditures from restricted accounts, including but not limited to:

i) real property;

ii) buildings, additions and/or structures (including site development and associated fixed equipment);

iii) extensive remodeling and/or rehabilitation work or site improvement; and

iv) utilities - lines fees, tapping fees, meter fees and other expenses not related to normal daily consumption;

F) Expenditures for repayment of principal on funds borrowed by the applicant.

3) If the amount of operating expenditures claimed by the applicant under this Part is not the same as a reported expense amount on the audited financial statement, the applicant shall prepare a detailed written explanation in order to reconcile the two. This explanation shall describe the amount and purpose of each expense added to or subtracted from the amount of expense reported in the audited financial statements in arriving at operating expense.

e) The Director shall determine and approve the amount that each eligible applicant receives as contribution under this Part.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 3200.170 Program Information/Contact

For additional information on the public museum operating grant rules contact:

Karen Fyfe

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Illinois State Museum, Administrative Office
Spring and Edwards Streets
Springfield IL 62706-5000
Phone: 217.782.7388; Fax: 217.782.1254
email: kfyfe@museum.state.il.us

(Source: Added at 23 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Hospital Services

2) Code Citation: 89 Ill. Adm. Code 148

3) Section Numbers: 148.82 — Proposed Action: Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Complete Description of the Subjects and Issues Involved: Section 148.82, which governs the Department's organ transplantation program, is being revised to provide coverage under Medicaid for intestinal (small bowel or liver/small bowel) transplants for children. These proposed amendments have been developed in response to inquiries received over the past several years from providers, legislators, families and other interested persons and groups concerning the Department's policies on intestinal transplantation.

Coverage for transplant procedures under the Illinois Medical Assistance Program is based upon criteria indicating a high probability of success for specific procedures. The Department has not previously established certification criteria for hospitals concerning intestinal transplants because the outcome data on such cases has not been promising. Department research shows that only a few hospitals (in Pennsylvania, Florida and Nebraska) have performed more than ten intestinal transplants. However, recent data regarding such transplants in children where certain immunosuppression techniques were employed, show much higher levels of success and the results of a clinical trial initiated in June 1990 were published in the February 1998 issue of the Journal of Pediatric Surgery.

The Department has analyzed the new data and conducted research regarding policies on small bowel transplant services in 12 other state Medicaid programs to establish certification criteria for intestinal transplant centers. This certification criteria pertains only to procedures for children since the survival rates for adults continue to remain low. The Department's intent to cover small bowel or liver/small bowel transplantation procedures for children, and the relevant hospital certification criteria that have been developed, have been approved by the State Medical Advisory Committee.

The Department is unable to project the budgetary impact of these proposed changes concerning intestinal transplantation because the extent of the need for such services is unknown at this time.

6) Will these proposed amendments replace emergency amendments currently in effect? No

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones
Bureau of Rules and Regulations
Illinois Department of Public Aid
201 South Grand Ave. E., 3rd Floor
Springfield, Illinois 62763
(217) 524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Hospitals and medical service providers will be affected by this proposed rulemaking. The Department is unsure whether any of the affected entities may qualify as small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: It was inadvertently omitted when the most recent regulatory agenda was published.

The full text of the proposed amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 148
HOSPITAL SERVICES

Section

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. III] and implementing and authorized by Articles III, IV, V, VI, and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended

at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997,for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amendment at 22 Ill. Reg. 21490, effective November 25, 1998; amended at 23 Ill. Reg. _____, effective _____.

Section 148.82 Organ Transplant Services

a) Introduction
The Department of Public Aid will cover organ transplants as identified under subsection (b) below which are provided by certified organ transplant centers which meet the requirements specified in subsections (c) through (h) of this Section.

b) Covered Services
1) Bone marrow, heart, heart/lung, lung (single or double), liver, pancreas or kidney/pancreas and intestinal (small bowel or liver/small bowel) transplantation.
2) Other types of transplant procedures may be covered when a hospital has been certified by the Department as a transplant center eligible to perform such transplants. Centers must complete the certification process established in subsection (c) below and provide the necessary documentation of the number of transplant procedures performed and the survival rates.
3) Medically necessary work-up.

c) Certification Process
1) In order to be certified to receive reimbursement for transplants performed on Medicaid patients, the hospital must:
A) Request an application from the Bureau of Comprehensive Health Services;
B) Submit a completed application to the Department for the type of transplant for which the center is seeking certification;
C) Meet certification criteria established in subsection (d) below, based upon review and recommendation of each application by the State Medical Advisory Committee (SMAC); and
D) Submit a detailed status report on each patient for the type of transplant for which the hospital is seeking certification. Such reports must include the patient's diagnosis, date of transplant, the length of hospitalization, charges, survival rates, patient-specific transplant outcome, and complications (including cause of death, if applicable) for all transplants performed in the time frames required for the type of transplant indicated in subsections ~~subsection~~ (d)(1)(C), (D), (E), (F), (G), or (H) of this Section. To protect the privacy of patients included in this report, names of non-Medicaid patients are not required.
2) The Department shall notify the hospital of approval or denial of the hospital as a transplant center for Medicaid eligible patients.
3) In the event that no hospital formally certified by the Department is able to provide a covered service set forth in subsection (b) above within the time frame necessary to preserve the recipient's health, the Department shall review a request for prior approval of the service from a non-certified facility, and if the facility satisfies the criteria for certification, approve the request on an individual case basis.
4) A joint application combining the statistical data for the adult and pediatric programs from two affiliated hospitals that share the same surgeons may be submitted for review by the State Medical Advisory Committee. The hospitals must meet the criteria under subsections (d)(1)(A), (B), ~~(C),~~ ~~(D),~~ ~~(H),~~ ~~(I),~~ (J), (K), (L), (M), (N), (O), and (P), the applicable criteria under subsections (d)(1)(C), (D) or (I) and (d)(1)(Q), subsections (d)(2), (3) and (4), and subsection (e) of this Section for certification and recertification.

d) Certification Criteria
1) Hospitals seeking certification as a transplant center shall

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

submit documentation to verify that:

A) The hospital is capable of providing all necessary medical care required by the transplant patient;

B) The hospital is affiliated with an academic health center;

C) The hospital has had the transplant program for heart and liver transplants in operation for at least three years with 12 transplant procedures per year for the past two years and 12 cases in the three year period preceding the most current two year period for adult heart and liver transplants;

D) The hospital has had the transplant program for heart/lung and lung transplants in operation for at least three years with ten transplant procedures per year for the past two years and ten cases in the three year period preceding the most current two year period for adult heart/lung and lung transplants;

E) A hospital specializing in pediatric heart/lung and lung transplants has had a program in operation for at least three years and has performed a minimum of six transplant procedures per year for the past two years, and six procedures in the three year period preceding the most current two year period;

F) The hospital has had the transplant program for adult and pediatric bone marrow transplants in operation for at least two years with 12 transplant procedures per year for the past two years;

G) A hospital specializing in pediatric heart or liver transplants, or both, has had a program in operation for at least three years and has performed a minimum of six transplant procedures per year for the past two years, and six procedures in the three year period preceding the most current two year period;

H) A hospital specializing in pediatric intestinal (small bowel or liver/small bowel) transplants has had a program in operation for at least three years and has performed a minimum of six transplant procedures per year for the past two years, and six procedures in the three year period preceding the most current two year period;

I)~~H~~) A hospital specializing in kidney/pancreas and/or pancreas transplants has had the transplant program in operation for at least three years with 25 kidney transplant procedures per year for the past two years and 25 cases in the three year period preceding the most current two year period, and five pancreas transplant procedures per year for the past two years and five in the three year period preceding the most current two year period, or 12 kidney/pancreas transplant procedures per year for the past two years and 12 in the three year period preceding the most current two year period;

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

J)~~I~~) The hospital has experts, on staff, in the fields of cardiology, pulmonology, anesthesiology, immunology, infectious disease, nursing, social services, organ procurement, associated surgery and internal medicine to complement the transplant team. In addition, in order to qualify as a transplant center for pediatric patients, the hospital must also have experts in the field of pediatrics;

K)~~J~~) The hospital has an active cardiovascular medical and surgical program as evidenced by the number of cardiac catheterizations, coronary arteriograms and open heart procedures per year for heart and heart/lung transplant candidates;

L)~~K~~) The hospital has pathology resources that are available for studying and reporting the pathological responses for transplantation as supported by appropriate documentation;

M)~~L~~) The hospital complies with applicable State and federal laws and regulations;

N)~~M~~) The hospital participates in a recognized national donor procurement program for organs or bone marrow provided by unrelated donors, abides by its rules, and provides the Department with the name of the national organization of which it is a member;

O)~~N~~) The hospital has an interdisciplinary body to determine the suitability of candidates for transplantation as supported by appropriate documentation;

P)~~O~~) The hospital has blood bank support necessary to meet the demands of a certified transplant center as supported by appropriate documentation; and

Q)~~P~~) The hospital meets the applicable transplant survival rates as supported by the Kaplan-Meier method or other method accepted by the Department:

i) A one-year survival rate of 50 percent for bone marrow transplant patients;

ii) A one-year survival rate of 75 percent and a two-year survival rate of 60 percent for heart transplant patients;

iii) A one-year survival rate of 75 percent and a two-year survival rate of 60 percent for liver transplant patients;

iv) A one-year survival rate of 90 percent for kidney transplant and a one-year survival rate of 80 percent for pancreas transplant; or a one-year survival rate of 80 percent for kidney/pancreas transplant patients;

v) A one-year survival rate of 65 percent and a two-year survival rate of 60 percent for heart/lung and lung (single or double) transplant patients; ~~or~~

vi) A one-year survival rate of 60 percent and a two-year survival rate of 55 percent for intestinal transplants

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

(small bowel or liver/small bowel).

2) The commitment of the hospital to support the transplant center must be at all levels as evidenced by such factors as financial resources, allocation of space and the support of the professional staff for the transplant program and its patients. The hospital must submit appropriate documentation to demonstrate that:
   A) Component teams are integrated into a comprehensive transplant team with clearly defined leadership and responsibility;
   B) The hospital safeguards the rights and privacy of patients;
   C) The hospital has adequate patient management plans and protocols to meet the patient and hospital's needs.
3) The hospital must identify, in writing, the director of the transplant program and the members of the team as well as their qualifications. Physician team members must be identified as board certified, in preparation for board certification, or pending board certification, and the transplant coordinator's name must be submitted.
4) The hospital must provide patient selection criteria including indications and contraindications for the type of transplant procedure for which the facility is seeking certification.

e) Recertification Process/Criteria
1) The Department will conduct an annual review for certification of transplant centers. A certified center must submit documentation established under subsections (c), (d), (f) and (h) of this Section for review by the Department's State Medical Advisory Committee for recertification as a transplant center.
2) Survival rates of previous transplant patients must be documented prior to certification. The center must maintain patient volume in the year of certification based on previous transplant statistics.
3) The Department shall notify the hospital of approval or denial of the recertification of the hospital as a transplant center.
4) If the hospital has previously met the requirements for certification or recertification of its program under subsections (d)(1)~~(I)~~, (J), (K), (L), (M), (N), ~~and~~ (O) and (P) and (d)(2), (3) and (4) of this Section and the program has experienced no changes under the above subsections, as evidenced in written documentation on the hospital's application, the hospital will not be required to resubmit the same data.

f) Notification of Transplant
1) The hospital must notify the Department prior to performance of the transplant procedure. The notification letter must be from a physician on the transplant team.
2) The notification must include the admission diagnosis and pre-transplant diagnosis.
3) The Department shall notify the hospital regarding receipt of the notification and provide the appropriate outcome summary forms to the hospital.

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

g) Reimbursement
1) Hospital services rendered for transplant procedures under this Section are exempt from the provisions of Sections 148.250 through 148.330 and 89 Ill. Adm. Code 149 of the Department's administrative rules governing hospital reimbursement. Hospital reimbursement for transplants covered within this Section is an all-inclusive rate for the admission, regardless of the number of days of care associated with that admission, which is limited to a maximum of 60 percent of the hospital's usual and customary charges to the general public for the same procedure for the number of days listed below for specific types of transplants:
   A) ~~A-maximum~~ 30 consecutive days of post-operative inpatient care for heart, heart/lung, lung (single or double), pancreas, or kidney/pancreas transplant; or
   B) 40 consecutive days of post-operative inpatient care for liver transplant; or
   C) 50 consecutive days of post-operative inpatient care for bone marrow transplant; or
   D) 70 consecutive days of post-operative inpatient care for intestinal (small bowel or liver/small bowel) transplants; or
   E)~~B)~~ For those transplants covered under subsection (b)(2) of this Section, the number of consecutive days of inpatient care specified within the transplant certification process.
2) Reimbursement will be approved only when the Department's letter acknowledging the notification of the transplant procedure is attached to the hospital's claim. Reimbursement will not be made until the discharge summary has been submitted to the Department.
3) Applicable disproportionate share payment adjustments shall be made in accordance with Section 148.120(g). Applicable outlier adjustments shall be made in accordance with Section 148.130. Applicable Medicaid High Volume adjustments shall be made in accordance with Section 148.290(d).
4) The rate will not include transportation and physician fees when reimbursed pursuant to 89 Ill. Adm. Code 140.410 through 140.414 and 140.490 through 140.492, respectively.
5) Hospital reimbursement for bone marrow searches is limited to 60 percent of charges up to a maximum of $25,000. Payment for bone marrow searches will only be made to the certified center requesting reimbursement for the bone marrow transplant.
6) Reimbursement for stem cell acquisition charges which includes the mobilization, chemotherapy, cytokines and apheresis processes must be billed under the appropriate revenue code on the claim submitted for the transplant procedure.

h) Reporting Requirements of Certified Transplant Center
The following documentation must be submitted within the time limits

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

set forth in this subsection.

1) Outcome Summary ~~Patient Tracking~~
   A) The discharge summary for each Medicaid patient must be received by the Department within 30 days after ~~of~~ the patient's discharge.
   B) For those Medicaid patients who expire, a summary must be received by the Department within 30 days after ~~of~~ the patient's death.
2) Notification of Changes
   The center must notify the Department within 30 days after ~~of~~ any changes in its program, including, but not limited to, certification criteria, patient selection criteria, members of the transplant team and the coordinator.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Medical Payment

2) Code Citation: 89 Ill. Adm. Code 140

3)

Section Numbers:	Proposed Action:
140.463	Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Section 4712 of the Federal Balanced Budget Act of 1997

5) Complete Description of the Subjects and Issues Involved: These proposed amendments are being filed pursuant to Section 4712 of the federal Balanced Budget Act of 1997 and are intended to provide payment adjustments for Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs). In order to comply with this federal mandate, Department staff and representatives from FQHCs and RHCs worked together in a committee to reach a consensus regarding an acceptable methodology for the payment adjustment calculations. These payment adjustments were to have taken effect October 1997 under the federal mandate, but implementation was delayed during the period of methodology development. The proposed amendments will now serve to expedite back payment adjustments and establish the payment adjustment program as required by the federal legislation.

   These proposed amendments are expected to result in a budgetary increase of $2.9 million.

6) Will these proposed amendments replace emergency amendments currently in effect? Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
140.430	Amendment	November 10, 1998 (22 Ill. Reg. 20511)
140.431	Amendment	November 10, 1998 (22 Ill. Reg. 20511)
140.432	Amendment	November 10, 1998 (22 Ill. Reg. 20511)
140.433	Amendment	November 10, 1998 (22 Ill. Reg. 20511)
140.434	Amendment	November 10, 1998 (22 Ill. Reg. 20511)
140.438	Amendment	November 10, 1998 (22 Ill. Reg. 20511)
140.467	Amendment	November 10, 1998 (22 Ill. Reg. 20511)
140.560	Amendment	November 10, 1998 (22 Ill. Reg. 20511)

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones
Bureau of Rules and Regulations
Illinois Department of Public Aid
201 South Grand Ave. E., 3rd Floor
Springfield, Illinois 62763

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

Any interested persons may review these proposed amendments at the Illinois Department of Human Services' local offices located in each county (except Cook County). In Cook County, the amendments may be reviewed at the Office of the Director, Illinois Department of Public Aid, and the Office of the Secretary, Illinois Department of Human Services, both located at 401 South Clinton, Seventh Floor, Chicago, Illinois. The amendments are being made available for review in accordance with federal requirements at 42 CFR 447.205.

These proposed amendments may have an impact on small businesses, small municipalities, and not-for- profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Federally Qualified Health Centers and Rural Health Clinics will be affected by this proposed rulemaking. The Department is unsure whether any of the affected entities may qualify as small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on Which this Rulemaking Was Summarized: July 1998

The full text of the Proposed Amendments is identical to the text of the emergency amendments that appears in this issue of the *Illinois Register* on page _____:

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Law Enforcement Agencies Data System (LEADS)

2) Code Citation: 20 Ill. Adm. Code 1240

3)

Section Numbers:	Proposed Action:
1240.10	Repeal
1240.20	Repeal
1240.30	Repeal
1240.40	Repeal
1240.50	Repeal
1240.60	Repeal
1240.70	Repeal
1240.80	Repeal
1240.90	Repeal
1240.100	Repeal
1240.110	Repeal
1240.120	Repeal
1240.130	Repeal
1240.140	Repeal

4) Statutory Authority: Implementing and authorized by the Criminal Identification Act [20 ILCS 2630] and authorized by Section 55a of the Civil Administrative Code of Illinois [20 ILCS 2605/55a].

5) A Complete Description of the Subjects and Issues Involved: The existing administrative rules for operation of the LEADS telecommunication system are inaccurate in some parts and obsolete in others. The new proposed rules completely replace the old language while maintaining the same general intent.

6) Will this proposed repealer replace an emergency repealer currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rulemaking contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: These rules will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: Within 45 days after the date of publication of this Notice, any interested person may submit comments, data, views or argument regarding the proposed repealer. The submissions must be in writing and directed to:

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED REPEALER

Mr. James W. Redlich
Chief Legal Counsel
Illinois State Police
124 East Adams Street, Room 102
P.O. Box 19461
Springfield, Illinois 62794-9461
217/782-7658

12) Initial Regulatory Flexibility Analysis:

A) Types of small business, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Repealer begins on the next page:

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED REPEALER

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
CHAPTER II: DEPARTMENT OF STATE POLICE

PART 1240
LAW ENFORCEMENT AGENCIES DATA SYSTEM (LEADS) (REPEALED)

Section
1240.10 Introduction
1240.20 The LEADS Advisory Policy Board (APB)
1240.30 Accessing LEADS Data and Participating in LEADS
1240.40 Equipment Options for Connecting to LEADS
1240.50 Financial Responsibility
1240.60 Terminal Environment, Location and Security
1240.70 Records Responsibility
1240.80 Validation of Computerized Hot Files (CHF) Records
1240.90 Dissemination of Data Obtained Through LEADS
1240.100 Operating Procedure Regulations
1240.110 Administrative Responsibilities
1240.120 Audits of Participating Agencies
1240.130 Procedures for Implementing Changes
1240.140 Non-Compliance

AUTHORITY: Implementing and authorized by "An Act in relation to criminal identification and investigation" (Ill. Rev. Stat. 1981, ch. 38, pars. 206-1 et seq.) and authorized by Section 55(a) of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1981, ch. 127, par. 55(a)).

SOURCE: Adopted at 3 Ill. Reg. 6, p. 125, effective February 19, 1979; codified at 7 Ill. Reg. 14508; recodified from the Department of Law Enforcement to the Department of State Police at 10 Ill. Reg. 3281; amended at 13 Ill. Reg. 8961, effective May 30, 1989; repealed at 23 Ill. Reg. _____, effective _____.

Section 1240.10 Introduction

a) The Illinois Law Enforcement Agencies Data System (LEADS) provided by the Department of Law Enforcement is a statewide, computerized telecommunications system designed to provide services, information, and capabilities to the law enforcement and criminal justice community in the State of Illinois. The heart of the system is the LEADS computer in Springfield operated by the Illinois Department of Law Enforcement. Terminals and computers located in authorized law enforcement and criminal justice agencies are connected by communications lines to the LEADS computer. This gives these agencies access to information stored in the LEADS files, and, through LEADS, gives them access to other criminal justice information systems. The degree to which access to these and other files is granted to the various types of criminal justice agencies is described further in this Part. It should be noted, however, that the information, capabilities, etc., available from and through LEADS are for bona fide law enforcement and criminal justice purposes only.

b) The Director of the Illinois Department of Law Enforcement is responsible for establishing policy, procedures and regulations consistent with state and federal rules, policies and law by which LEADS operates. The Director has appointed the LEADS Advisory Policy Board (APB) to reflect the needs and desires of the law enforcement and criminal justice community and to make recommendations concerning policies and procedures consistent with existent state and federal rules. The LEADS APB Charter follows as part of Section 1240.20 of this Part.

c) LEADS is a user-oriented system, and strong emphasis is placed on maintaining effective communications with field users. A statewide LEADS Conference is held during the Fall of each year. Regional mini-conferences are scheduled each year in varying locations throughout the State. The Department of Law Enforcement and LEADS attempt to be responsive to the needs of the law enforcement and criminal justice community that they serve.

d) A system is only as good as those who use it. It is the intent of the following LEADS regulations and policies to set forth the requirements, responsibilities, limitations and restrictions to assist in making user agencies aware of what can and cannot be done. Questions or comments on any portion of this Part should be submitted in writing to: LEADS Administrator, 501 Armory Building, Springfield, Illinois 62706.

Section 1240.20 The LEADS Advisory Policy Board (APB)

a) Charter

1) Official Designation
Pursuant to the authority vested in the Director of the Department of Law Enforcement, State of Illinois, an Advisory Policy Board for the data processing function of this Department is hereby established. This Board will be known as the Law Enforcement Agencies Data System (LEADS) Advisory Policy Board (APB) and shall operate under the procedures contained herein and shall hereafter be referred to as "The Board."

2) The Board's Objectives and Scope of Activity

A) To recommend to the Director of the Department of Law Enforcement general policy with respect to the philosophy, concept and operational principles of LEADS, particularly the relationship with local agencies, other state departments, the FBI's National Crime Information Center (NCIC), the National Law Enforcement Telecommunications System (NLETS) and all criminal justice agencies.

B) To review and consider rules, regulations and procedures for the operation of LEADS.

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED REPEALER

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED REPEALER

C) To consider the real-time, random-access capabilities for LEADS operational needs of the criminal justice agencies in the light of public policy, participating agencies' policies, and local, state and federal statutes.

D) To review and consider security and confidentiality aspects of LEADS.

E) To recommend standards for participation by criminal justice agencies in LEADS.

3) Tenure
The period of time necessary for the Board to carry out its purpose.

4) Reporting
The Board shall report to the Director of the Department of Law Enforcement or his designated appointee.

5) Support Services
The Department of Law Enforcement will provide the necessary support services for the Board.

6) Duties
To accept for review and deliberation from Divisions of the Department of Law Enforcement, Secretary of State, the LEADS users, and the public; matters coming within the Board objectives. To report to the Director the results of all deliberations, together with its recommendations. The Chairperson of the Board shall appoint a Working Group Committee (WGC) to address work task priorities, training, education, conferences, computer interfaces, system performance and statistics, and problems of users on a continuing basis. The Chairperson of the WGC shall be appointed by the Board Chairperson. The Chairperson of the Board shall appoint a Committee on Security and Confidentiality to address the problems of security on a continuing basis.

7) Date of Charter
April 1, 1977.

b) Authorization for LEADS
The authority for LEADS is derived from Chapter 127 and Chapter 38 of the Illinois Revised Statutes authorizing the Department of Law Enforcement to acquire, collect, classify and preserve identification, criminal identification, crime and other records and to operate an electronic data processing center for the storage and retrieval of data pertaining to criminal activity and exchange of these records, with and for the official use of authorized officials of criminal justice agencies at all levels of local, state and federal governmental agencies.

c) Composition of LEADS Advisory Policy Board

1) The LEADS Board shall be composed of eleven representatives of the law enforcement and criminal justice agencies throughout the State. The representatives will be appointed to the Board by the Director. Representation on the APB shall be made up of:

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED REPEALER

	Division of State Police
1 Member	Field Operations
1 Member	Bureau of Communications and Management Information
1 Member	District Field Commander
1 Member	Division of Criminal Investigation
1 Member	Division of Support Services
1 Member	Illinois Sheriff's Association
1 Member	Illinois Association of Chiefs of Police
1 Member	Chicago Police Department
1 Member	Secretary of State, Data Processing Department
1 Member	Illinois Circuit Clerk's Association
1 Member	LEADS Administrator

2) The Chairperson of the Board must be one of the appointed members and selected by the Director. Each Board member shall be willing to serve and devote adequate time necessary to the business addressed by the Board.

3) Filling of Vacancies of Board Members
It is the responsibility of the organization represented to submit to the Director a candidate to fill a vacancy.

4) Selection of Chairperson of LEADS Advisory Policy Board
The Director shall appoint a Chairperson from the representatives appointed to serve on the Board. A Vice Chairperson shall be elected by the APB.

5) LEADS Advisory Policy Board Meeting Procedures

A) The Board shall meet bi-monthly on the third Thursday of each month beginning in January unless an alternate date has been selected for a specific month by the Board members. The Chairperson may call special meetings if a specific need arises.

B) All APB meetings will be conducted in accordance with the Open Meetings Act (Ill. Rev. Stat. 1981, ch. 102, pars. 41 et seq.). Persons planning to attend a specific meeting are asked to communicate with the LEADS Administrator (217/782-7677 or through terminal LYD) at least two weeks in advance of the meeting date.

C) Only members of the LEADS Board or their proxies in attendance at meetings shall be allowed to vote. The member sending a proxy must notify the Chairperson of the Board in writing on a per meeting basis prior to the opening of such meeting. The proxy shall be from the organization the individual is representing.

D) A member personally missing three consecutive meetings shall lose his or her seat on the LEADS Board. The same representative cannot be immediately reappointed for a period of one year. The Director shall appoint a replacement from the same agency to fill the vacant seat.

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED REPEALER

No meeting of the Board shall be held and no vote taken without a quorum of said body being present, i.e., seven (7) members of the Board, including proxy representatives. All votes shall be decided by a simple majority of those members of the Board present.

E) The LEADS Administrator will set an agenda at least one day in advance of all meetings of the Board.

F) All records, transcripts, minutes and other documents relating to the advisory functions of the LEADS Board shall be administered by the Board Chairperson.

G) The Director of the Department of Law Enforcement shall be the final arbiter of all matters related to the operations and policy of LEADS when recommendations of the Board are in possible conflict with Federal or State statutes and/or Department policies.

H) Vendors will not be permitted to promote products or make sale presentations.

I) All expenses required shall be paid for by the member or his agency in the conducting of business of the LEADS Advisory Policy Board.

d) LEADS Advisory Policy Board Standing Committees

1) The Chairperson of the Board shall have the authority to appoint standing committees and other committees and the Chairpersons thereof.

2) Each committee Chairperson shall be responsible to the Board and report back his findings or recommendations.

3) The Chairpersons of the standing committees and other committees shall call the committee meetings.

4) There shall be two standing committees; the Working Group Committee and the Security and Confidentiality Committee. The same rules pertaining to attendance for the APB shall pertain to the standing committees.

Section 1240.30 Accessing LEADS Data and Participating in LEADS

a) Direct access to LEADS data and full participation in all elements of LEADS shall be restricted to those agencies that meet each of the "Criteria for Full Eligibility" listed below. Multi-jurisdictional communications centers, agencies connected to a non-criminal justice computer or data center, out-of-state agencies, non-government agencies, civil courts, and juvenile agencies are treated as special cases under paragraph (c) below. Before a conclusion as to a particular organization's eligibility can be reached, the definitions and requirements listed in paragraph (c) below must be considered. Exceptions are covered in paragraph (d) below.

1) Direct Access Defined -- As used in this Part, the phrase "direct access (to LEADS)" shall refer to

A) having a terminal device or computer located on the agency's

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED REPEALER

premises that is connected by a data communications link (telephone line) to the LEADS computer in Springfield, and

B) being authorized to access LEADS data and services.

2) LEADS Data Defined -- As used in this Part, the term "LEADS data" shall refer to all data available through the LEADS computer, which includes the following:

A) LEADS Computerized Hot Files (CHF);

B) National Crime Information Center (NCIC) Hot Files;

C) Illinois Secretary of State Drivers License, Vehicle Registration and Title Files;

D) Motor Vehicle and Drivers Files of other states;

E) Illinois and NCIC Computerized Criminal History (CCH) Files and other forms of Criminal History Record Information (CHRI);

F) Firearm Owners (FOID) File;

G) State Alcohol Licenses (SALOON) File;

H) Weather and Highway Conditions Files for Illinois and other states;

I) Such other files or information that may become available through LEADS from time to time.

3) LEADS Services Defined -- "LEADS services" as supplied by the Department of Law Enforcement shall include:

A) providing access to the files listed above;

B) the handling of directed/administrative messages within Illinois and nationwide;

C) providing on-line entry of Uniform Crime Reports data;

D) providing training sessions, newsletters, bulletins, and Reference Manuals;

E) supplying such other services as may become available.

4) Full Participation Defined -- "Full participation" shall mean that an agency has direct access to all LEADS data and services, and enters and maintains all of its warrants and theft reports in the LEADS and NCIC Hot Files. Hot Files data entry is covered in detail in Section 1240.70 of this Part.

b) Criteria for Full Eligibility

To qualify for direct access to and full participation in LEADS, each of the following criteria must be met:

1) Criminal Justice Agency

A) The candidate organization must be a criminal justice agency as defined in the U.S. Department of Justice Regulations on Criminal Justice Information Systems (28 CFR 20, Subpart A). These regulations in Section 20.3 define a "criminal justice agency" as:

"(c) . . . (1) courts; (2) a government agency or any subunit thereof which performs the administration of criminal justice pursuant to a statute or executive order, and which allocates a substantial part of its annual budget to the administration of criminal

justice."

B) "Administration of criminal justice" is defined in Title 28 as:

"(d) . . . performance of any of the following activities; detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information."

2) Powers of Peace Officers -- The candidate organization must be vested with the powers of "peace officers" as defined in the Criminal Code of 1961 (Ill. Rev. Stat. 1981, ch. 38, par. 2-13), which reads as follows:

"'Peace officer' means any person who by virtue of his office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses."

3) Management Control

A) The candidate organization's communications system -- all LEADS terminals, printers and related equipment; and all personnel operating and/or having access to LEADS-related equipment -- must be under the direct management control of a sheriff, chief of police, authorized law enforcement supervisor, authorized criminal justice administrator, or Department of Law Enforcement official.

B) "Management control" is defined as the authority to set and enforce

i) priorities;

ii) standards for the selection, supervision and termination of personnel; and

iii) policy governing the operation of all communication and LEADS-related equipment.

4) Signed Agreement -- The candidate organization must complete and file with the Department of Law Enforcement, a duly executed copy of the "Criminal History Record Information Criminal Justice Agreement."

AGENCY NOTE: If access to Computerized Criminal Histories (CCH) is not authorized or desired, a duly executed copy of the "LEADS User's Agreement" must be filed instead of the "Criminal History Record Information Criminal Justice Agreement."

c) Eligibility for Special Cases

The following paragraphs define the eligibility requirements for organizations which are considered to be special cases. Except where specifically stated to the contrary, "special case" organizations must

meet the criteria in paragraph (b) above.

1) Multi-Jurisdictional Communications Center

A) Definition -- A "Multi-Jurisdictional Communications Center" is any organization which is created by formal agreement entered into by political subdivisions in a particular area entirely within the State of Illinois for the purpose of at least providing police radio dispatching, LEADS services (if qualified), telephone answering, and any other communications functions for the benefit of all of those agencies who are parties to the agreement.

B) Eligibility -- The Management Control criterion (paragraph (b)(3) above) must be met in all respects by the Multi-Jurisdictional Communications Center organization. To satisfy this requirement, a copy of the charter, ordinance, or other legal document which establishes management control must be submitted to the LEADS Administrator for review and approval. If approved by LEADS, the same document must also be approved by the NCIC prior to granting access to NCIC files.

2) Non-Criminal Justice Computer or Data Center

A) Definition -- The "Non-Criminal Justice Computer or Data Center" is defined as a computer system, communications switcher or any other device through which LEADS data will pass and/or by which LEADS data can be processed that is located within the confines of a non-criminal justice agency and not within the candidate organization's communications center where the principal LEADS terminal(s) and printer(s) are located. Both locations must be within the boundaries of the State of Illinois.

B) Eligibility Excluding CCH Access -- In addition to meeting the "management control" requirement for the communications system (paragraph (b)(3) above), the candidate criminal justice agency (CJA) must exercise at least limited management control with regard to the operation of all hardware at the non-criminal justice data center including the processor, communications controller, communications switcher, and storage devices which will be used to process, store or forward LEADS data. The minimum requirements for the criminal justice agency (CJA) to exercise such limited management control will be by having a written agreement with the non-criminal justice agency operating the computer center that gives the criminal justice agency:

i) a guarantee that the CJA's teleprocessing network receives the highest priority in the areas of maintenance, support and assignment of personnel and hardware resources.

ii) the right to final approval in selection of all software used to communicate with LEADS.

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED REPEALER

iii) the right to screen all employees who will have access to hardware which connects to LEADS.

iv) the authority to make any necessary audits to insure system security.

v) the authority to review management output reports to ensure that the CJA's guaranteed priority agreement is being honored.

vi) the authority to recommend for separation any employee who violates the LEADS Regulations.

C) Eligibility to Include CCH Access -- If CCH data or any Criminal History Record Information is to pass through and/or be processed by equipment housed in a non-criminal justice data center, the eligibility requirements given in (c)(2)(B) above must be met and exceeded in that the written agreement between the CJA and the data center must give the CJA full management control as defined under (b)(3) above.

D) Written Agreement Filed -- A copy of the written agreement between the CJA and the data center will be filed with the LEADS Administrator who will submit it to the LEADS APB for review.

E) Permission to Audit -- The agreement with the CJA will also contain a clause that grants permission to the LEADS Administrator to inspect and audit this system.

3) Out-of-State Agency -- No organization located outside of the boundaries of Illinois will be given direct access to LEADS or be allowed to connect to LEADS unless it is deemed by the LEADS Advisory Policy Board to be in the best interest of all LEADS participants statewide to permit access by the foreign organization.

4) Non-Government Agency -- An organization which meets each of the above criteria for Peace Officers, Management Control, and Signed Agreement (paragraphs (b) (2), (3) and (4) above) but does not qualify as a "government agency" is eligible for participation in LEADS, but cannot be granted access to any National Crime Information Center (NCIC) files. Under existing NCIC rules, Non-Government Agencies include, but are not limited to, railroad police and the security departments of private colleges and universities.

5) Civil Court -- Any court that hears civil cases only does not qualify for NCIC access.

6) Juvenile Agency -- Any correctional facility that houses only juveniles who are not involved in the criminal justice process but who are orphaned or declared incorrigible is eligible for participation in LEADS with the exception that it does not qualify for NCIC access under existing NCIC rules. Any agency that supervises only juveniles who are not involved in the criminal justice process also does not qualify for NCIC access.

d) Exceptions -- No exceptions will be made to the above requirements for

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED REPEALER

agencies desiring direct access to and full participation in LEADS. An organization not qualifying as a law enforcement and criminal justice agency or not desiring full participation even if qualified may, with the approval of the Director of the Department of Law Enforcement on recommendation from the LEADS Advisory Policy Board, receive limited information from LEADS. To apply for limited capabilities, contact the LEADS Administrator, 501 Armory Building, Springfield, Illinois 62706; 217/782-7677.

e) Change in Status -- The LEADS Administrator must be notified in writing in advance of any anticipated change in the status of an agency already participating or already approved for participation in LEADS. Continued participation in LEADS will be subject to a review of the new status to determine if all eligibility requirements can be met. Change in status includes, but is not limited to:

1) A single-jurisdiction LEADS user plans to join a Multi-Jurisdictional Communications Center.

2) Changes are to occur in the management structure of an approved Multi-Jurisdictional Communications Center.

3) Changes are to occur in the management structure of a Non-Criminal Justice Computer or Data Center.

4) A Non-Criminal Justice Computer or Data Center is created or plans to become involved with LEADS services where no involvement existed before.

5) Involvement of a Non-Criminal Justice Computer or Data Center is to be discontinued or altered.

Section 1240.40 Equipment Options for Connecting to LEADS

a) Provided that an agency qualifies for participation in LEADS as described in Section 1240.30 of this Part, there are three (3) options for obtaining equipment and physically connecting to the system. These options are:

1) Department of State Police (DSP) Supplies Standard Equipment -- Fully-Supported Environment

2) -- Agency Supplies Non-Standard Equipment -- Non-Supported Environment

3) -- Agency Supplies Standard Equipment -- Semi-Supported Environment

b) "Supported" Defined
The term "supported" refers to the assistance which will be provided by the Department of State Police to the user agency. This could include the following:

1) -- Systems analysis and design

2) -- Computer programming

3) -- Equipment ordering, installation, maintenance, moving and removal

4) -- Training

5) -- Operating procedures and reference manuals

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED REPEALER

6) -- Statistics on each terminal's usage of LEADS

c) Requirement for Advance Written Request
An agency must make a written request 90 days in advance of the desired connection date. The request must be sent to the LEADS Administrator, 501 Armory Building, Springfield, Illinois 62706. The request must indicate when connection to LEADS is desired and which of the three options is planned.

d) DSP Supplies Standard Equipment -- Fully-Supported Environment
An agency will be fully supported when it requests that the Department of State Police (DSP) make all arrangements to provide standard equipment. In this case, DSP and the participating agency will have the following responsibilities:

1) The Department of State Police will:

A) Place all orders for the installation, relocation or removal of all line-related and terminal-related equipment.

B) Make all technical services arrangements related to installation, maintenance, relocation and removal of all necessary equipment.

C) Perform all systems analysis, design and programming required at both the Data Center and the terminal.

D) Absorb all costs related to the computer equipment at the Data Center.

E) Provide training for terminal operators and interested administrative personnel representing the participating agency.

F) Provide a reference manual, publications, notices and special bulletins.

G) Provide assistance toward the solution of operational problems.

2) The Fully-Supported agency will:

A) Pay the cost of installation, monthly rental, relocation and removal of all terminal equipment and communications facilities.

B) Procure and pay the cost of all consumable supplies (printer paper, ribbons, etc.).

C) Provide operating and administrative personnel at the terminal site.

D) Absorb the cost of travel, lodging and meals for its own personnel attending training sessions, conferences, etc., unless otherwise stipulated by the Department of State Police.

e) Agency Supplies Non-Standard Equipment -- Non-Supported Environment
When a department elects to obtain its own terminal equipment that is not identical to equipment offered through DSP, that department is operating in a non-supported environment. This means that the agency may connect its equipment to LEADS, but will not receive the full support from DSP offered to users of standard equipment. A special example of non-standard equipment is the mobile terminal which is

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED REPEALER

covered in subsection (g) below. DSP and the user agency will meet the following responsibilities:

1) The Department of State Police will:

A) Provide technical information such as communications disciplines (electronic procedures by which computers and terminals "talk" to each other) and message structures necessary for successful connection to LEADS.

CAUTION: LEADS will only allow connection of equipment which operates at certain specific data transmission rates and which uses one of the communications disciplines which DSP supports. DSP will not perform special programming to support a communications discipline that is not already supported by DSP.

B) Place orders for the installation, relocation or removal of all communications lines and related communications facilities (modems).

C) Perform all programming required at the DSP Data Center which is identical to that provided for the fully supported environment.

D) Make all technical services arrangements related to the installation, maintenance, repair, relocation and removal of all communications lines and related communications equipment. DSP will not be responsible for maintenance arrangements on any of the user agency's terminal equipment.

E) Absorb all costs related to the computer equipment at the DSP Data Center, with the exception of those costs related to the transmission control unit in such cases where a non-supported terminal requires additional equipment on that unit.

F) Provide a reference manual, publications, notices and special bulletins in the language of the Fully-Supported Terminal Environment.

CAUTION: The user must understand that the terminology and procedures described in LEADS publications will frequently not correspond exactly to the terminology and procedures established in the non-supported environment. This places an additional responsibility on the user agency to insure that all LEADS-written communications are understood and adhered to.

G) Provide training for terminal operators and interested administrative personnel in the use of the LEADS Operating and Reference Manuals and the various LEADS services. DSP will not provide training on the operation of non-standard terminal equipment.

H) Provide assistance for identifying the source of operational problems. DLE will make arrangements for the correction of

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED REPEALER

those problems determined to be related to the Data Center or the communications line. DSP accepts no responsibility for the correction of difficulties found to be associated with the user's terminal equipment.

2) The Non-Supported agency will:

A) Arrange for a conference between its own representatives, the terminal vendor, and DSP. The conference must be successfully concluded before DSP will make any preparations for connection of non-standard equipment. DSP suggests that this meeting occur prior to the signing of a contract between a participating agency and any vendor. If not prior to signing, the meeting should occur at the earliest possible time thereafter. DSP accepts no responsibility for misunderstanding of LEADS specifications and requirements which occur between the local agency and its vendor.

B) Pay the cost of supplies and the cost of installation, monthly rental, relocation and removal of all terminal and line-related equipment.

C) Pay the cost of a dedicated communications line (a line to which no other agency is connected).

CAUTION: The cost of a dedicated line is based on the distance between the local terminal and the LEADS Data Center, and on the data transmission rate desired. This cost is frequently much higher than local agencies anticipate and has resulted in significant changes to agency plans.

D) Pay the cost of connecting the communications line to the transmission control unit at the LEADS Data Center.

E) Pay the cost of all design work, programming and maintenance associated with the terminal equipment. (Maintenance of the communications line is included in the monthly line charge.)

F) Pay all expenses resulting from problems which are caused by the terminal equipment.

G) Provide operating and administrative personnel at the terminal location.

H) Provide training of agency personnel in the use of terminal equipment.

I) Insure that an individual agency's system will provide access to all authorized LEADS files and services, and permit the agency's operator to perform all functions that may be performed on fully-supported equipment. The only exception is the service of on-line entry of Uniform Crime Reports (I-UCR) data which the agency may elect not to provide.

J) Absorb all costs for reprogramming and equipment modifications which become necessary to keep in step with changes made at the LEADS Data Center. (See Section 1240.130(b) of this Part.)

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED REPEALER

CAUTION: LEADS is constantly being changed. New capabilities are added frequently. An agency operating in the Non-Supported Environment must be prepared to absorb the costs necessary to provide all of the same services LEADS provides to fully-supported terminals. Electing not to supply all services offered by LEADS (with the exception of on-line I-UCR data entry) is in violation of this Part.

K) Absorb the expense of travel, lodging and meals incurred by agency and vendor representatives who attend training sessions, conferences, etc., unless otherwise stipulated by DSP.

f) Agency Supplies Standard Equipment -- Semi-Supported Environment

An agency will qualify for nearly full support when it obtains equipment from its own sources which is identical to equipment offered through DSP.

1) The Department of State Police will:

A) Place all orders for the installation, relocation or removal of the communications lines and related equipment (modems).

B) Make all technical services arrangements for installation, maintenance, relocation and removal of the communications lines and equipment.

C) Perform all system analysis, design and programming required at both the Data Center and the terminal.

D) Absorb all costs related to the computer equipment at the Data Center.

E) Provide training for terminal operators and interested administrative personnel representing the participating agency.

F) Provide a reference manual, publications, notices and special bulletins.

G) Provide assistance towards the solution of operational problems.

2) The Semi-Supported agency will:

A) Meet with DSP if requested to do so.

B) Make all arrangements for installation, relocation, maintenance and removal of the terminal equipment.

C) Assume all responsibility for contractual agreements with the terminal vendor and all related expenses.

D) Provide operating and administrative personnel at the terminal site.

E) Absorb the cost of travel, lodging and meals for its own personnel attending training sessions, conferences, etc., unless other funding is provided to the agency.

F) Notify DSP in writing and receive approval from DSP prior to any change being made to the terminal equipment.

G) Notify DSP in writing and receive approval from DSP prior to connecting the equipment to or disconnecting it from LEADS.

H) Bear the expense of changes to the terminal equipment made necessary by changes to LEADS.
AGENCY NOTE: All written communications necessary for the above must be addressed to LEADS Administrator, Department of State Police, 501 Armory Building, Springfield, Illinois 62706.

g) Mobile Terminals
1) "Mobile Terminal" Defined -- A mobile terminal is a device installed in a vehicle which has the capability to send receive digital messages. There are two basic types in use:
A) the receive-only teleprinter which has no typewriter-like keyboard.
B) the two-way mobile terminal which lets the officer type out and send messages from the vehicle as well as to receive messages.
2) Mobile Terminal Regulations -- Both types of mobile terminals, when used to send data to or to receive data from LEADS, are governed by the regulations for the Non-Supported Environment covered in subsection (e) of this Section. In addition, the following requirements must be met by the agency participating in LEADS:
A) Before requesting bids for any mobile terminal equipment, the LEADS Administrator must be notified in writing of:
i) the fact that mobile terminals are being planned,
ii) the type of mobile terminal,
iii) the number of mobile terminals to be installed, and
iv) the installation date.
B) If called for by the LEADS Administrator, the agency must meet with the LEADS Staff.
C) Prior to any transmission of Computerized Criminal History (CCH) data to an agency's mobile terminals, the agency must receive written approval from the LEADS Administrator and the Chief of the Bureau of Identification of the Department of State Police. Approval shall be granted only if the LEADS Administrator and the Chief of the Bureau of Identification of the Department of State Police are satisfied that safeguards will be employed to ensure that CCH data transmitted to mobile terminals will not be accessed or viewed by an individual not authorized by "AN ACT in relation to criminal identification and investigation" (Ill. Rev. Stat. 1987, ch. 38, pars. 206-1 et seq.) to utilize CCH data. This satisfaction will be based upon the following safeguards:
i) The mobile terminal must be disabled or removed when
ii) The agency must have the ability to disable the mobile terminal electronically without having physical access to the vehicle.
iii) Transmission of CCH data must be made only to uniquely

identified mobile terminals, and this identification shall be protected to avoid duplication by unauthorized individuals.
D) The agency must insure that all officers and other personnel who operate a mobile terminal understand and comply with Section 1240.90 of this Part--Dissemination of Data Obtained Through LEADS.
E) The agency must insure that all mobile terminals are secure at all times from use by unauthorized personnel.

Section 1240.50 Financial Responsibility

Agencies participating in LEADS shall promptly meet all monetary obligations to the vendor(s) which provides terminal equipment, maintenance and lines.

a) Financial Obligations
1) Normal Monthly Charges -- Normal monthly charges include the following:
A) Charges for LEADS lines and modems (communications facilities).
B) Charges for vendor-owned LEADS terminal/printer equipment.
C) Charges for contract maintenance on LEADS equipment not owned by the vendor(s).
2) Other Charges -- Other charges include the following:
A) Shipping charges on LEADS equipment shipped to participating agencies.
B) Installation charges for LEADS communication lines and equipment installed by a vendor.
C) Charges for relocating LEADS communications lines or equipment.
D) Maintenance charges not covered by normal LEADS equipment leasing or contract maintenance charges. Damage caused by failing to maintain the proper terminal environment, not keeping the electrical supply within specifications, or abusing the equipment will result in additional charges on a time and materials basis.

b) User Purchases Supplies -- Participating agencies will purchase their own printer paper, printer ribbons, and perforator tape. Specifications for such supplies and lists of possible vendors are available from the Department of Law Enforcement on request. The listing of any vendor in no way represents an endorsement or recommendation by DLE, but is furnished to assist participating agencies in locating possible sources of supply.

Section 1240.60 Terminal Environment, Location and Security

The following constraints pertaining to LEADS terminal environment, location and security are binding on each participating agency:

a) Environment -- The terminal must be located in a safe, clean and dry

environment. Each agency must provide electric service as well as controlled temperature and humidity levels specified by the terminal manufacturer.

b) Location -- The principal terminal must be located within or adjacent to the communications equipment control console to insure continuous monitoring of the printer and/or CRT screen. The CRT interface device (modem) must be accessible to the terminal operator to facilitate line and/or terminal restoration procedures by the vendor.

c) Security -- All terminal components (Model 35 printer or CRT display unit, keyboard, printer and modem) must be placed in a location under the direct control and supervision of authorized personnel as identified in this Part and be inaccessible to the public or persons not qualified to either operate, view or possess LEADS transmitted or received data. It is further recommended that land lines coming into the building housing the LEADS terminal be buried.

Section 1240.70 Records Responsibility

Each agency assumes certain obligations inherent with its participation in LEADS. Each participating agency, by accepting a LEADS terminal or by connecting to LEADS with its own equipment, implicitly agrees to the following conditions concerning the entry, maintenance and removal of its records and the maintenance of associated files:

a) Computerized Hot Files (CHF) Records

1) Record Entry -- Each agency agrees to enter all records pertaining to thefts, criminal acts and missing/runaway persons into LEADS (and NCIC, where appropriate) as soon as the occurrence is known and sufficient identifiers are available to permit the establishment of a record. Temporary records may be entered when there is a question concerning the issuance of a warrant, but a permanent record must be established upon resolution of the complaint. All CHF entries must be in accordance with current procedures and codes as published in the LEADS Operating Manual and the LEADS Reference Manual.

2) 24-Hour Terminal Manning Requirement -- Any agency which has entered records into the CHF must insure that its terminal is operated on a 24-hour-per-day basis by trained and competent operators who have access to the necessary records to respond to inquiries relative to the status of that agency's LEADS records and who have both the knowledge and skill to correctly enter, modify, remove and interpret records.

3) Record Removal -- Each agency will promptly cancel their records when notified or when they become aware that the legal intent of their entry has been satisfied; i.e., the recovery of stolen property or the apprehension or return of suspects.

4) Quality of Records -- Each agency assumes responsibility for both the accuracy and timeliness of the records entered under its authority. Each agency will cooperate with LEADS/NCIC quality

control efforts by modifying or removing records that are either incorrect or invalid. In all cases, the agency must take action relative to a record in question during the shift or work period that notification is received. The Department of Law Enforcement has the right to remove any record where a substantial question exists concerning the validity or accuracy of the record. Immediately upon removal of any record, DLE will notify the entering terminal.

5) Record Status Inquiries -- Each agency will respond promptly to inquiries from other agencies relative to the validity and currency of its LEADS/NCIC records.

6) Supporting Documents -- Each LEADS/NCIC record will be supported by an investigative document, active warrant or complaint. No permanent LEADS or NCIC entry will be made based solely on a telephone report by the alleged victim or owner. Documents supporting LEADS/NCIC records must be available to terminal operators on a 24-hour-per-day basis, either by direct access or telephone inquiry.

7) Active Messages File -- Each agency will maintain an Active Messages File by entry category (wanted or missing persons, stolen vehicles, stolen guns, etc.) that is readily accessible to the terminal operator. The hard copy of the Enter Acknowledgement Message, complete with the LEADS Message Number (LDS) and, if appropriate, the NCIC Message Number (NIC), must be retained in the file as long as the message remains active in LEADS/NCIC. An agency with a computer connected to LEADS may maintain its Active Messages File on the computer instead of in hard copy form as long as the local computer file is readily accessible to the LEADS terminal operator and the computer file record is complete.

8) Cancelled Records File -- The hard copy printout of all cancelled records, complete with recovery/apprehension data and date, must be retained for at least one (1) year in a Cancelled Records File. This file must be maintained separately from the Active Messages File. An agency with computer facilities may maintain the Cancelled Records File on magnetic tape or other computer storage media as long as all data elements specified here for a hard copy file are contained in the computer record.

9) Multi-Jurisdictional Communications Center -- Multi-jurisdictional communications centers must maintain complete and separate Active Messages Files and Cancelled Records Files for each member agency served by the center and authorized to enter records into LEADS. When a member agency in a communications center has access to LEADS via another terminal located within its own department in addition to the terminal or terminals located within the communications center, the member agency must select one (1) location, either the agency location or the communications center location, that will:

A) enter, maintain and remove all LEADS records for that agency; and

B) abide by LEADS policy relative to security and staffing constraints.

b) Illinois Uniform Crime Reporting (I-UCR)

1) Record Entry

A) Any agency which accepts a funded, LEADS Upgrade CRT (Cathode Ray Tube) video terminal is required to enter I-UCR data by one of the following methods:

i) Direct entry through the LEADS Upgrade CRT terminal.

ii) Magnetic tape.

iii) Punched cards.

B) This procedure should begin within thirty (30) days of the completion of training for I-UCR entry. If an agency fails to comply with this policy, the terminal may be removed.

2) I-UCR Not CRT Justification -- No funded, LEADS Upgrade CRT (Cathode Ray Tube) video terminal will be ordered if justified solely on I-UCR entry requirements.

Section 1240.80 Validation of Computerized Hot Files (CHF) Records

a) Immediate Removal -- Computerized Hot File records in both LEADS and NCIC must be immediately removed when no longer valid. Promptness in entering, modifying, voiding and cancelling records is essential to maintaining the integrity of the LEADS/NCIC files. Each record in the files is identified with the agency originating that record, and that agency alone is responsible for the accuracy of that record.

b) Mandatory Participation -- It is mandatory that all agencies having records in the LEADS Computerized Hot Files (CHF) participate in the LEADS Record Validation Programs.

c) Comparison with Case Files -- For validation purposes, each record entered by an agency will be listed on a computer printout titled Illinois LEADS Validation Listing. The agency should compare the data in each record with the information in its case files. Whenever possible, the original complainant should be interviewed.

d) Vehicle Records -- A stolen motor vehicle record meeting the criteria of current LEADS formatting (entry) will be maintained in the system for the current year plus four years unless through prompt record maintenance or LEADS validation research, the motor vehicle in question is determined to have been recovered or a registered owner and/or legal owner cannot be located for disposition purposes during any one of the validation searches that occur every one hundred and eighty (180) days. It is the responsibility of the originating agency to cause the necessary research to be completed to determine information identifying the registered owner and/or legal owner by name and address.

e) Marking the Validation Listing -- The original copy of the Illinois LEADS Validation Listing must be marked to indicate which records are

active and which records have been cancelled. It is not the responsibility of the LEADS Data Center to cancel the records of any agency. When it is determined that a record is no longer valid, it is the responsibility of the entering agency to immediately cancel this record.

f) Non-Terminal Agency -- When a terminal agency is entering records for a non-terminal agency, it is the responsibility of the terminal agency to obtain confirmation from the non-terminal agency that the records are still valid.

g) Agency Head's Signature Required -- The Agency Head (Chief of Police, Sheriff, District Commander, or Superintendent) accepts responsibility for the validity of all records entered by their agency by signing the LEADS Validation Certification Document. The signature of a lesser official will not be accepted.

h) Return to Leads -- The LEADS Validation Certification Document and the original copy of the Illinois LEADS Validation Listing must be returned to the LEADS Data Center prior to the deadline for the program.

i) Failure to Validate -- Failure of an agency to comply with the validation regulations will result in the voiding of all records entered into LEADS by that agency.

Section 1240.90 Dissemination of Data Obtained Through LEADS

a) General Restrictions

1) Criminal Justice Purposes Only -- All data supplied through LEADS is to be used strictly for criminal justice purposes.

2) Personal Use Prohibited -- It is strictly forbidden to obtain any data through LEADS for personal reasons.

3) Personal Messages Prohibited -- It is strictly forbidden to transmit messages over LEADS or to encourage messages to be transmitted over LEADS for reasons of personal, unofficial communication. For example, LEADS may not be used for communicating personal messages from one LEADS terminal to another.

4) Selling Data Prohibited -- It is permissible to prorate or share the costs of your LEADS operation among one or more other departments for which you provide all LEADS services. However, it is strictly forbidden to sell any information obtained through LEADS to any individual, group of individuals, organization, government agency, or corporation.

5) Unauthorized Dissemination Prohibited -- It is strictly forbidden to disseminate any information obtained through LEADS to any individual or organization that is not legally authorized to have access to that information.

b) Specific Data Dissemination Regulations

1) Computerized Hot Files (CHF)

The information found in the CHF is generally considered to be a

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED REPEALER

matter of public record. However, dissemination of such data beyond the law enforcement/criminal justice community must be approached with caution.

2) National Crime Information Center (NCIC)
   A) The following statements apply to NCIC data and are taken directly from page Intro-6 dated June 30, 1977 of the NCIC Operating Manual:
      i) "The data stored in the NCIC is documented criminal justice information and access to that data must be restricted to duly authorized criminal justice agencies."
      ii) "The FBI uses hardware and software controls to help ensure system security. However, final responsibility for the maintenance of the security and confidentiality of criminal justice information rests with the individual agencies participating in the NCIC."
   B) As an NCIC Control Terminal Agency, the Illinois Department of Law Enforcement must assume responsibility for and enforce NCIC system security with regard to all other agencies participating in NCIC through LEADS.
3) Secretary of State (SOS)
   A) Any request for any SOS record via LEADS shall be for criminal justice purposes only.
   B) SOS data required for non-criminal justice purposes must be obtained directly from the SOS; i.e., LEADS may not be used.
   C) Although the Illinois Revised Statutes authorize the Secretary of State to charge fees for providing registration and vehicle records, there is no provision for any criminal justice agency to charge for SOS data obtained through LEADS. Any such charge or fee is prohibited under the General Restrictions (paragraph (a)(4)) of this Section.
4) Foreign States' Drivers Licenses and Vehicle Registrations via NLETS
   A) Drivers license and vehicle registration information is provided by other states to Illinois departments via NLETS/LEADS on the same basis that the Illinois SOS provides this information -- for criminal justice purposes only.
   B) If out-of-state driver or vehicle data is required for non-criminal justice purposes, LEADS/NLETS may not be used. Instead, agencies participating in LEADS/NLETS must advise the requestor to deal directly with authorities in the state that houses the desired records.
5) Firearm Owner's Identification (FOID)
   A) FOID data is provided by the Department of Law Enforcement to "law enforcement authorities" as stipulated in "An Act relating to the acquisition, possession and transfer of firearms and firearm ammunition, to provide a penalty for

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED REPEALER

the violation thereof, and to make an appropriation in connection therewith" (Ill. Rev. Stat. 1981, ch. 38, pars. 83-1 et seq.)
   B) Dissemination of FOID information obtained through LEADS is restricted to peace officers.
6) Illinois Uniform Crime Reporting (I-UCR)
   A) I-UCR data which is supplied to the State may be disseminated to the public by the originating agency at any time.
   B) I-UCR data compiled by the State must not be disseminated to the public, except by the originating agency, until after such time as the compiled data has been verified and made official for release by the Director of the Department of Law Enforcement.
7) State Alcohol Licensing Operational On-Line Network (SALOON)
   Liquor license data and data on licensed establishments and owners are available through LEADS/SALOON, only for official criminal justice purposes. LEADS/SALOON must not be used to obtain this data for non-criminal justice purposes or for non-criminal justice agencies and individuals. Instead, these requests should be referred directly to the Illinois Liquor Control Commission, 160 North LaSalle Street, Chicago, Illinois 60601; 312/793-2210.
8) Computerized Criminal Histories (CCH)
   A) Criminal History Record Information (CHRI) obtained from the Department of Law Enforcement over LEADS shall not be disseminated to any person or agency not authorized by law to receive such information.
   B) The Department of Law Enforcement will not respond to computerized inquiries (CCH inquiries or directed messages) for licensing or employment purposes. LEAA guidelines mandate that the Department of Law Enforcement maintain complete and accurate records. The dissemination of information meeting these standards is of utmost importance with regard to licensing and employment matters. As such, DLE shall disseminate CHRI for licensing and employment purposes, only after completing a fingerprint search of Department files.
   C) The delivery of old or outdated CHRI to another criminal justice agency is highly discouraged. In order to ensure the dissemination of the most current data available, the disseminating agency should query (inquire into) the Department of Law Enforcement whenever feasible. The Department recognizes that exceptions may exist justifying dissemination without querying in extraordinary circumstances.
   D) Each transaction which involves any extra-agency release (release to any agency other than your own) of CHRI as

supplied by the Department of Law Enforcement must be logged in a Secondary Dissemination Log maintained by the agency which ran the inquiry. The content of entries required in the log is reflected in Section 4 of the referenced "Criminal Justice Agreement" and includes:

i) Name of requesting agency having access to Criminal History Record Information (CHRI).

ii) Name of the requestor (i.e., the person getting CHRI on behalf of an authorized agency).

iii) Name of the individual to whom the information relates.

iv) BCI Number of the individual to whom the information relates.

v) Date of dissemination.

E) Secondary Dissemination Logs shall be maintained for a period of three (3) years following the last date of dissemination contained therein. After the three-year maintenance period expires, the logs may be destroyed provided that express authorization is granted in accordance with either the State Records Act (Ill. Rev. Stat. 1981, ch. 116, pars. 43.4 et seq.) or the Local Records Act (Ill. Rev. Stat. 1981, ch. 116, pars. 43.101 et seq.), whichever is applicable.

Section 1240.100 Operating Procedure Regulations

LEADS is a complex system having limited resources which must be shared by many users. The use or misuse of LEADS by one agency can significantly affect all other users. Therefore, compliance with these Operating Procedure Regulations is necessary to optimally and fairly allocate LEADS resources and services.

a) Hot Files Hit Processing

1) Q or Z Hit, Subject or Property in Custody -- As soon as possible after receiving a positive hit response to an inquiry, the agency receiving the hit message must contact the Originating Authority (ORA) of the record to confirm the status of the record. The inquiring agency must also insure that the record, in fact, pertains to the same subject, vehicle, property, etc., which is in custody.

2) Q Hit, Subject or Property Not in Custody -- When the inquiring agency receives a hit by Q inquiry on a LEADS (not NCIC) record but does not have the person, vehicle or property in custody, the inquiring agency must notify the Originating Authority (ORA) of that fact. (A Q hit on a LEADS record causes the originator of the record to receive automatic notification of who hit the record. The Originating Authority will be expecting an explanation from the inquiring agency.)

3) Locating -- A confirmed hit with the subject, vehicle or property in custody requires that the agency receiving the hit immediately

perform a LOCATE transaction against all record(s) that were determined to be applicable.

4) Retention of Terminal-Produced Printout

A) When an operational inquiry on an individual or property yields a valid positive response (hit), the original copy of the terminal-produced printout showing the record(s) on file in LEADS/NCIC should be retained for use in documenting probable cause for the detention of the missing person, arrest of the wanted person, or seizure of the property. The printout may also prove valuable in a civil suit alleging a false arrest, a false imprisonment, a civil rights violation, or an illegal seizure of property.

B) When an NCIC inquiry yields a hit, the terminal employee making the inquiry should note on the original copy of the terminal-produced printout precisely how, when, and to whom the information was given; sign and date this notation; and forward the printout to the inquiring officer or agency for retention in the case file. This procedure establishes the chain of evidence for the communication should the arresting officer need to substantiate his actions in a judicial proceeding.

C) The printout should be retained for as long as there remains any possibility that the defendant will challenge the arrest, search, or other law enforcement action taken because of the information contained on the printout. Retain the printout until all possible levels of appeal are exhausted or the possibility of a civil suit is no longer anticipated.

b) Broadcasting of Messages

1) Stolen or Recovered Property -- Item-by-item lists of stolen or recovered property are not to be broadcast over LEADS either statewide, regionally, or to a district. A brief summary message in generic terms may be broadcast if it is felt such a message will aid in the recovery of stolen property or in owner identification of recovered property.

2) Range Limitations -- The extent of the area over which a message is broadcast must be carefully limited to include only those agencies which can reasonably be expected to have an interest in or a need to know the contents of the message. For example, a message concerning only Illinois and surrounding states should not be broadcast nationwide. A message of interest only to Cook and surrounding counties should not be broadcast statewide.
AGENCY NOTE: Message broadcasting is expensive in terms of the LEADS resources consumed. It must be used judiciously.

3) Holiday Greetings -- On no occasion is it permissible to use LEADS for broadcasting a message of holiday greetings.

4) Political Messages -- On no occasion is it permissible to use LEADS for broadcasting a message dealing with a political

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED REPEALER

campaign, political rally, or candidate for political office.

5) Commercial Messages -- The use of LEADS is prohibited for sending messages of a commercial nature.

c) Point-to-Point Administrative Messages

1) Brevity and Abbreviations -- All messages transmitted over LEADS must be brief and to the point. Furthermore, abbreviations should be used wherever possible. However, obscure abbreviations should be avoided to prevent confusion and misunderstanding.

2) Judicious Use of Bells -- At no time shall a single message contain more than five (5) Bell characters. The Bell feature is provided as a means of calling attention to messages of particular importance or urgency. Excessive use of the Bell may annoy the recipient and could defeat the purpose for which the Bell is intended. The great majority of messages should contain no Bell character at all.

3) Improper Signature -- It is strictly prohibited to ever sign a LEADS message for another department or in any way imply that a message was authorized by an authority other than that of the sending terminal unless such other authority has specifically requested that the message be sent.

d) Prompt Acknowledgement of Messages Received

10-Minute Rule -- Except where unusual circumstances prevent compliance, all directed or administrative messages should be acknowledged by the receiving agency within 10 minutes of receipt. If a full reply can be sent within 10 minutes, the reply itself serves as the acknowledgement of receipt. If a complete reply cannot be prepared within 10 minutes, the message should be acknowledged (within 10 minutes) along with an indication as to when a complete reply can be expected.

AGENCY NOTE: The 10-Minute Rule does not apply to a message broadcasted to many agencies as members of a broadcast list unless the sender specifically asks for an acknowledgement or reply.

e) Scheduling Non-Critical Transactions -- In the interest of preventing degraded LEADS service during LEADS' busiest periods (weekdays between 0800 and midnight), it is highly recommended that non-critical transactions be scheduled for weekends and weekdays between 0100 and 0700 hours. This will result in better service for the agency doing the scheduling and will prevent that agency from causing degraded service to other LEADS users who are running urgent transactions. Messages which should be considered for scheduling are:

1) -- Routine I-UCR data entry.

2) -- 10-28's for the purpose of collecting overdue parking ticket fines.

3) -- A list of 10-28's submitted by a detective asking for checks "when time permits."

4) -- Inquiries pertaining to routine, semi-annual validation of Hot Files records.

CAUTION: Entry, modification, cancellation or voiding of a Hot Files record should never be scheduled for a later time.

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED REPEALER

f) Servicing Non-Terminal Agencies

The following regulations apply to any agency which routinely provides all LEADS services for one or more other criminal justice agencies which do not have their own LEADS terminals:

1) LEADS Message Service Agreement -- One copy of this Agreement must be executed with each agency which is routinely serviced. The signed Agreement must be filed with the Department of Law Enforcement.

2) Responsibility for Agreement Initiation -- The agency providing LEADS services (the LEADS terminal agency) is responsible for initiating the Service Agreement with the serviced, non-terminal agency.

3) Source of Forms -- Copies of the "LEADS Message Service Agreement" form are available from the LEADS Administrator, 501 Armory Building, Springfield, Illinois 62706; 217/782-7677.

4) Termination of Service Agreement -- If either party to the LEADS Message Service Agreement wishes to terminate the Agreement for any reason, the LEADS terminal agency must immediately notify the LEADS Administrator of this fact.

Section 1240.110 Administrative Responsibilities

a) Appoint a LEADS Supervisor

1) Appointment Required -- Every LEADS terminal agency is required to appoint one employee as its LEADS Supervisor. The name of this person must be submitted to the LEADS Administrator.

2) Supervisor Qualifications -- The minimum requirements for the appointed LEADS Supervisor are:

A) Must be an employee under the direct management control of the chief, sheriff, superintendent, district commander, or other criminal justice agency head.

B) Must be thoroughly familiar with all LEADS regulations and policies.

C) Must be familiar with the LEADS Reference and Operating Manuals and all LEADS capabilities and procedures.

3) Supervisor Duties -- Some of the duties of the LEADS Supervisor will be to:

A) Serve as liaison with Department of Law Enforcement personnel on routine, LEADS-related matters.

B) Coordinate training of all agency personnel on LEADS capabilities, procedures, regulations and policies.

C) Assist the Agency Head to insure that all LEADS regulations and policies are followed.

D) Provide input to LEADS personnel of the Department of Law Enforcement regarding problems and ideas for improvement and changes to LEADS.

E) Insure that the LEADS Reference and Operating Manuals are

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED REPEALER

properly updated in accordance with paragraph (b) which follows.

4) Termination -- Immediately upon the termination or reassignment of the LEADS Supervisor, the Agency Head must appoint and notify the LEADS Administrator of the new LEADS Supervisor.

b) Maintain LEADS Reference Manual

1) Must Maintain All Copies -- The LEADS terminal agency must maintain all copies of the LEADS Reference Manual that have been issued to it. This shall include:

A) Insuring that all pages are intact and worn pages are replaced.

B) Inserting all Modifications within five (5) working days after receiving them from the LEADS Data Center in Springfield.

C) Properly maintaining the Modification Register found in the chapter on Changes in this Manual.

D) Promptly returning the Receipt which accompanies each Modification.

E) Insuring that no changes, alterations, additions or deletions are made to the Manual other than those directed by LEADS unless prior written approval is received from the LEADS Administrator.

F) Returning any copies of the Manual which are no longer needed.

2) Copying Restricted -- Unless otherwise specified, copying any part or all of this Manual is prohibited! Individual pages may be copied to replace worn pages which are being discarded. Lost or missing pages may be replaced by notifying terminal KQC or by writing to LEADS Manual, 501 Armory Building, Springfield, Illinois 62706. Additional copies of the complete Manual may be obtained as explained below.
AGENCY NOTE: Creating extra copies of part or all of this Manual by copying locally is prohibited in order to avoid the problem of keeping the extra copies current. Modifications are mailed out only for serialized copies issued from Springfield.

3) Requesting Additional Copies -- Each LEADS terminal agency is issued one (1) serialized copy of the LEADS Reference Manual. Requests for additional copies must be accompanied by written justification of the need for more than one copy. Send requests with justification to: LEADS Reference Manual, 501 Armory Building, Springfield, Illinois 62706.

4) Non-Supported Terminal Agency Must Maintain One Manual -- A LEADS terminal agency using its own equipment and operating in a Non-Supported Environment (see Section 1240.40(e) of this Part) must maintain at least one copy of the LEADS Reference Manual as provided by LEADS. This is required even if the agency has manuals of its own which pertain specifically to its own equipment, policies and procedures.

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED REPEALER

5) Must Maintain "Old" Manual, Too -- All of the above regulations apply to the "old" LEADS Operating Manual (white and blue covers) until such time as it has been completely superseded by the LEADS Reference Manual.

c) Obtain LEADS Training

1) It is mandatory that an agency operating a LEADS terminal have in its employment at all times at least one (1) individual who has successfully completed a LEADS training class conducted by the Illinois Department of Law Enforcement.

2) It is highly recommended that a fully trained LEADS operator be on duty at all times.

3) It is recommended that all LEADS terminal operators and dispatchers complete a LEADS training class conducted by the Illinois Department of Law Enforcement.

4) It is highly recommended that all sworn officers and administrative personnel receive periodic orientation on LEADS capabilities, procedures, rules and regulations.

d) Participate in LEADS Workshops/Conferences

1) Annual LEADS Conference -- The Department of Law Enforcement (DLE) hosts a conference in Springfield every Fall for all LEADS participants. It is highly recommended that every LEADS terminal agency be represented at these conferences.

2) Regional LEADS Workshops -- DLE conducts one-day workshops or mini-conferences at various locations throughout the State. Generally, one workshop per year is held in each region of the State. It is highly recommended that every LEADS terminal agency be represented at a minimum of one workshop per year.

e) Know Daily Bulletin Board Contents

1) Every day, Monday through Friday (except holidays), the LEADS Staff puts a message into LEADS which is referred to as the "BUL" or Daily Bulletin Board message. These messages contain a wide variety of information from critically important operational bulletins to nice-to-know comments.

2) All LEADS terminal agencies will be held responsible for knowledge of and compliance with all information and instructions promulgated through the Daily Bulletin Board.

3) When the Daily Bulletin Board asks for voluntary response to questions on LEADS-related matters, all LEADS terminal agencies are urged to respond whenever possible. This may often represent an opportunity for your department to "vote" on the future of LEADS.

Section 1240.120 Audits of Participating Agencies

The Department of Law Enforcement reserves the right to conduct routine audits of any agency participating in LEADS at any time. The purpose of an audit will be to determine that all of these LEADS regulations in general or certain of these regulations in particular are being complied with.

a) Audit Procedures
   1) The Department of Law Enforcement will:
      A) Routinely give two (2) weeks notice prior to the commencement of an audit;
      B) Provide personnel to conduct the audit;
      C) Furnish a written report of its findings to the audited agency at the conclusion of the audit.
   2) The agency being audited will:
      A) Make its LEADS Supervisor available to provide assistance during the audit;
      B) Make available to the auditors the Active Message File, the Cancelled Records File (see Section 1240.70(a) (7) and (8)), logs, all copies of the LEADS Reference Manual, and non-confidential case file material supporting LEADS and NCIC Hot Files entries;
      C) Permit the auditors access to all LEADS terminal operators, clerks handling I-UCR entry, and other agency personnel involved with LEADS-related activities.

b) CCH Audits -- Federal requirements demand that the Department of Law Enforcement select a random sample of agencies for periodic auditing in order to ensure compliance with security and privacy provisions. As these relate to CCH considerations, such audits shall be limited to:
   1) Evaluation of agency compliance with secondary dissemination logging provisions outlined in Section 1240.90(b)(8)(D) of this Part.
   2) Terminal security.
   3) Distribution of CCH Output Reports and any other CHRI supplied by the Department.

Section 1240.130 Procedures for Implementing Changes

a) Changes to This Part -- If it should become necessary for the Director of the Department of Law Enforcement to change the regulations in this Part, the following procedures will be used:
   1) Filed with the SOS -- All changes to this Part will be filed with the Secretary of State in accordance with provisions of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, pars. 1005-35 and 1005-65).
   2) Published in the LEADS Reference Manual -- Upon taking effect, changes to this Part will be published and distributed as part of a routine, bi-monthly Modification to the LEADS Reference Manual, Chapter 30.

b) Changes to LEADS Services -- This Part requires that any agency using non-standard equipment must provide access to all authorized LEADS files and services and permit the agency's operator to perform all functions that may be performed on fully-supported equipment. The one exception is on-line entry of I-UCR data. (See Section 1240.40(e)(2), subparagraphs (I) and (J).) The following regulations will apply when changes are to be made to LEADS:

   1) The Department of Law Enforcement will:
      A) Announce Each Change -- Major additions or changes to LEADS services or procedures for LEADS access will be announced by DLE at least 45 days prior to the planned implementation date. Such announcements will be made as articles in the LEADS monthly Newsletter and/or as notices in the on-line Daily Bulletin Board. (See Section 1240.110(e) of this Part.)
      B) Issue Technical Bulletin -- When the DLE LEADS Staff believes that a change will dictate that technical modifications must be made by local LEADS users of non-standard equipment, a technical bulletin will be provided by DLE. The bulletin will be mailed to all requesting LEADS user agencies at least 30 days prior to the planned implementation date of the change or addition.
      C) Provide Notice of Implementation -- When a change is implemented, DLE will immediately notify all users of that fact through the Daily Bulletin Board.
      D) Enter an Operational Note -- When deemed necessary, DLE will enter an Operational Note into the on-line Help File to provide appropriate instructions for dealing with the change.
      E) Publish Manual Modification -- All changes to LEADS services will be reflected in a bi-monthly LEADS Reference Manual Modification to be published by DLE no more than 90 days after the actual implementation date.
      F) Expedite Emergency and Minor Changes -- DLE reserves the right to make emergency and minor changes and additions to LEADS without prior notice or with less notice than called for in subparagraph (A) above. Whenever this becomes necessary, DLE will still provide notice of implementation, enter an Operational Note, and publish a Manual Modification. If deemed necessary, a technical bulletin will be issued at the earliest possible time.
   2) All LEADS User Agencies will:
      A) Stay Abreast of Changes -- All users must be aware of all changes and additions to LEADS that are announced in the Daily Bulletin Board. All LEADS operators and other appropriate personnel should be informed at the earliest possible time.
      B) Update Manuals -- The Reference Manual Modifications must be applied to all copies as stipulated elsewhere in this Part. (See Section 1240.110(b)(1).)
   3) Agencies Operating Non-Standard Equipment will:
      A) Request Technical Bulletins -- It shall be each individual agency's responsibility to request that it be placed on the

mailing list to receive technical bulletins. The request may be made by directed message to terminal KQC, or by letter to the LEADS Administrator, 501 Armory Building, Springfield, Illinois 62706.

B) Promptly Implement Technical Changes -- To remain in compliance with the provisions of Section 1240.40(e)(2)(J), the agency must implement any necessary technical changes within 60 days after the actual DLE implementation date or within 60 days after the technical bulletin is received, whichever occurs first.

C) Request an Extension

i) In any case where the agency believes it cannot comply with (B), above, within the specified time frame, it must submit a written request for an extension. The request must state the circumstances necessitating the extension and give the agency's plan and target date for getting into compliance. Requests must be sent to the LEADS Administrator, 501 Armory Building, Springfield, Illinois 62706.

ii) The Director of the Department of Law Enforcement will grant extensions on an individual basis depending on the circumstances involved. Either the Director or the agency may also request a hearing as provided for in Section 1240.140 of this Part.

Section 1240.140 Non-Compliance

Violation of this Part will be dealt with on an individual basis and could result in suspension of part or all LEADS capabilities, either temporarily or completely and permanently. The Department of Law Enforcement reserves the right to suspend all or any portion of LEADS service without prior notification.

a) Minor Violations -- When a violation of the regulations in this Part occurs that does not threaten the integrity of LEADS, the LEADS Administrator will give written notice to the guilty agency explaining the violation. Such minor violations will not justify suspension of any LEADS access or service.

b) Repeated, Continuous, or Multiple Violations -- When an agency is believed to be repeatedly or continuously in violation of the regulations in this Part or has violated multiple regulations, the Director of the Department of Law Enforcement shall set a hearing, providing the agency with at least 20 days advance written notice of the hearing date. See Hearing Procedures (d) below.

c) Major Violations

1) When a violation of the regulations in this Part or related law occurs that could seriously affect the integrity of LEADS or could threaten the safety of officers or the public, the Director of the Department of Law Enforcement reserves the right to

immediately suspend all or part of LEADS access or services without prior notice. When this becomes necessary, the Director will immediately notify the suspended agency by the quickest means possible with a follow-up letter giving the following:

A) A list of the services which have been suspended;

B) Reasons for suspension;

C) A hearing date which shall be within 10 days of the date of suspension.

2) If circumstances warrant, the Director may lift the suspension prior to the hearing. Normally, however, the suspension would remain in effect at least until the hearing has been concluded.

d) Hearing Procedures -- When a hearing has been set by the Director or his designee, the following procedures will be followed:

1) The agency believed to be in non-compliance will appear at the hearing.

2) Representatives of the LEADS Advisory Policy Board will present evidence that a violation has occurred or is occurring.

3) The agency shall be given an opportunity to explain the reasons for non-compliance or explain why the agency believes that it has not committed a violation.

4) If a violation has occurred, the agency will explain the steps taken to prevent a future violation or to eliminate non-compliance.

e) Director's Decision

1) At the conclusion of the hearing, the Director may:

A) Suspend service;

B) Find compliance;

C) Lift a suspension already imposed;

D) Grant a period of time to comply with the regulations.

2) If the Director grants additional time to comply, the Director shall set a date for a subsequent hearing to review compliance with the terms of the Director's order. At the second hearing, the Director may exercise any option he could have exercised at the original hearing.

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULE

1) Heading of the Part: Law Enforcement Agencies Data System (LEADS)

2) Code Citation: 20 Ill. Adm. Code 1240

3)

Section Numbers:	Proposed Action:
1240.10	New Section
1240.20	New Section
1240.30	New Section
1240.40	New Section
1240.50	New Section
1240.60	New Section
1240.70	New Section
1240.80	New Section
1240.90	New Section
1240.100	New Section
1240.110	New Section

4) Statutory Authority: Implementing and authorized by the Criminal Identification Act [20 ILCS 2630] and authorized by Section 55a of the Civil Administrative Code of Illinois [20 ILCS 2605/55a].

5) A Complete Description of the Subjects and Issues Involved: The existing administrative rules for operation of the LEADS telecommunication system are inaccurate in some parts and obsolete in others. The new proposed rules completely replace the old language while maintaining the same general intent.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? Yes

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: These rules will not require a local government to establish, expand, or modify its activities in such a way as to necessitate expenditures from local revenue.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Within 45 days after the date of publication of this Notice, any interested person may submit comments, data, views, or argument regarding the proposed rules. The submissions must be in writing and directed to:

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULE

Mr. James W. Redlich
Chief Legal Counsel
Illinois State Police
124 East Adams Street
Room 102
P.O. Box 19461
Springfield, Illinois 62794-9461
217/782-7658

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Rule begins on the next page:

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULE

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER II: DEPARTMENT OF STATE POLICE

PART 1240
LAW ENFORCEMENT AGENCIES DATA SYSTEM (LEADS)

Section
1240.10 Introduction
1240.20 The LEADS Advisory Policy Board (APB)
1240.30 Accessing LEADS Data and Participating in LEADS
1240.40 Connecting to LEADS
1240.50 LEADS Access Security
1240.60 Computerized Hot Files (CHF) Records
1240.70 Validation of CHF Records
1240.80 Dissemination of Data Obtained Through LEADS
1240.90 Administrative and Training Responsibilities
1240.100 LEADS Terminal Agency Audits
1240.110 Non-Compliance/Sanctions

AUTHORITY: Implementing and authorized by the Criminal Identification Act [20 ILCS 2630] and authorized by Section 55(a) of the Civil Administrative Code of Illinois [20 ILCS 2605/55a].

SOURCE: Adopted at 3 Ill. Reg. 6, p. 125, effective February 19, 1979; codified at 7 Ill. Reg. 14508; recodified from the Department of Law Enforcement to the Department of State Police at 10 Ill. Reg. 3281; amended at 13 Ill. Reg. 8961, effective May 30, 1989; old Part repealed and new Part adopted at 23 Ill. Reg. _____, effective _____.

Section 1240.10 Introduction

a) The Illinois Law Enforcement Agencies Data System (LEADS) provided by the Department of State Police (Department) is a statewide, computerized telecommunications system designed to provide services, information, and capabilities to the law enforcement and criminal justice community in the State of Illinois.

b) The Director of the State Police (Director) is responsible for establishing policy, procedures, and regulations consistent with State and federal rules, policies, and law by which LEADS operates. The Director shall designate a statewide LEADS Administrator for management of the system. The Director may appoint a LEADS Advisory Policy Board to reflect the needs and desires of the law enforcement and criminal justice community and to make recommendations concerning policies and procedures.

Section 1240.20 The LEADS Advisory Policy Board (APB)

a) The Director may appoint a LEADS APB to advise the Director with

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULE

respect to the needs and interests of the law enforcement and criminal justice community.

b) The APB's Objectives and Scope of Activity
   1) To recommend to the Director general policy with respect to the philosophy, concept, and operational principles of LEADS.
   2) To review and consider LEADS rules, regulations, standards, and procedures.
   3) To consider and advise the Director with respect to participating agency non-compliance and sanctions.
   4) To review and consider other LEADS-related issues as may be requested by the Director.

c) The APB, subject to the Director's approval, shall establish its own bylaws and procedures.

Section 1240.30 Accessing LEADS Data and Participating in LEADS

a) Access to and the extent of participation in LEADS are determined by the criteria in this Section.

b) Definitions as used in this Section
   1) "Direct access" refers to having a terminal device or computer located on the agency's premises connected by a data communications link to the LEADS computer.
   2) "Full access" refers to direct access to all LEADS data and services.
   3) "LEADS data" refers to all data available through the LEADS computer.
   4) "LEADS services" refer to:
      A) providing access to LEADS files;
      B) processing messages through LEADS;
      C) providing training and technical support to LEADS users; and
      D) other LEADS-related services that may become available from the Department.
   5) "Less than full access" refers to limited access to some LEADS data and services.

c) Criteria for Full Access
   To qualify for full access to LEADS:
   1) the following criteria must be met:
      A) The candidate organization must be a criminal justice agency as defined in the U.S. Department of Justice Regulations on Criminal Justice Information Systems (28 CFR 20, Subpart A); or
      B) The candidate organization must be under the management control of a criminal justice agency; or
      C) The candidate organization must be a governmental consolidated dispatch center for providing police dispatch services and must have entered into a specific agreement with a criminal justice agency to provide services for the administration of criminal justice pursuant to that

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULE

agreement. The agreement must be approved by the LEADS Administrator and incorporated into the LEADS interagency agreement; or

D) The candidate organization must be a non-governmental railroad or campus police department that performs the administration of criminal justice, has arrest powers pursuant to State statute, allocates a substantial part of its budget to the administration of justice, and meets the training requirements established by law for peace officers; or

E) The candidate organization must be authorized by law to access some or all LEADS data and the organization's utilization of LEADS will not adversely impact criminal justice proposes; and

2) The participating organization must enter into a LEADS interagency agreement reflecting rights and duties of the parties.

Section 1240.40 Connecting to LEADS

a) To connect to LEADS, an agency must have computer hardware and computer software, and be connected to a communications link to the LEADS Data Center in Springfield. For each of these requirements, there are various options. In addition, the agency must meet certain planning and administrative responsibilities.

1) Notify LEADS Administrator
When an agency desires to participate in LEADS and meets the qualifications described in Section 1240.30 or when an agency wishes to change its method of connecting to LEADS, it must make a written request at least 90 days in advance of the desired connection date. The request must be sent to the LEADS Administrator and must state:

A) When connection to LEADS is desired; and

B) What equipment and connecting options are planned by the agency.

2) Arrange a Conference
The agency must arrange for a conference between its own representatives, any hardware or software vendors involved, and the Department. The LEADS Administrator may waive the requirement for a formal meeting if the vendor has previously demonstrated the ability to successfully interface with LEADS. The Department accepts no responsibility for misunderstanding of LEADS specifications and requirements that occurs between the local agency and its vendors.

b) The LEADS Administrator must approve the agency's hardware and software configuration prior to the agency connecting to LEADS.

Section 1240.50 LEADS Access Security

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULE

a) Each LEADS participating agency shall comply with the LEADS access security standards established by the Department.

b) Personnel Security Requirements

1) Thorough background screening of LEADS-related personnel is required by the employing agency. State and national criminal history record checks by fingerprint identification must be conducted for terminal operators, programmers, and other persons employed or utilized to effectuate access to or initiate transmission of LEADS and National Crime Information Center (NCIC) information, regardless of the frequency of access. A fingerprint-based background check must be performed on any person with direct access to LEADS. The agency shall submit both Illinois and FBI criminal justice applicant fingerprint inquiries to the Illinois State Police, Bureau of Identification.

2) No persons will be permitted LEADS access unless they are of good character and have not been convicted of a felony or a crime involving moral turpitude under the laws of this or any other jurisdiction. Any person may have their LEADS access denied if charged with a felony or crime of moral turpitude under the laws of this or any other jurisdiction.

3) No person may provide maintenance or technical services at or near LEADS equipment unless they are of good character and have not been convicted of a felony or a crime involving moral turpitude under the laws of this or any other jurisdiction. Any persons may have their authority to provide maintenance or technical services at or near LEADS equipment denied if charged with a felony or a crime involving moral turpitude under the laws of this or any other jurisdiction.

4) LEADS operators shall use the terminal only for those purposes for which they are authorized. The individual receiving a request for criminal justice information must ensure the person requesting the information is authorized to receive the data.

5) Each participating criminal justice agency must have appropriate written standards for discipline of LEADS and NCIC policy violators.

c) Site Management Requirements
Each LEADS agency must ensure that all LEADS computer devices are placed in a location under the direct control and supervision of authorized criminal justice personnel and are inaccessible to the public or persons not qualified to either operate, view, or possess LEADS and/or NCIC transmitted or received data. The computer site and/or terminal area must have adequate physical security to protect against any unauthorized personnel gaining access to the computer equipment or to any of the stored data.

Section 1240.60 Computerized Hot Files (CHF) Records

a) CHF Maintenance

1) Any agency that has entered records into the CHF must ensure that its terminal is operated on a 24-hour-per-day basis by certified LEADS operators.
2) Each LEADS record must be supported by an investigative document, active warrant, or complaint. No LEADS entry shall be made solely on a telephone report by the alleged victim or owner. Documents supporting LEADS records must be available on a 24-hour-per-day basis to the terminal operator, either by direct access or telephone inquiry, for purposes of case confirmation, quality control, validation, record maintenance, etc.
3) Each agency must enter information into LEADS or ensure information has been entered into LEADS as soon as the facts are known and sufficient identifiers are available to permit the establishment of a LEADS record.
4) All warrants will be immediately entered into LEADS by the responsible agency within 24 hours after receiving reliable information sufficient to permit the establishment of a LEADS record unless entry is delayed by emergency operational needs.
5) Each agency assumes responsibility for the accuracy of the records entered under its authority. The accuracy of LEADS records must be double-checked by a second party within 24 hours after entry. That verification will ensure the available cross-checks (e.g., vehicle identification/license numbers) were made and that data in the LEADS record matches the data in the investigative report. Each agency will cooperate with LEADS quality control efforts by modifying or removing records that are incorrect or invalid. An agency must take action with respect to an incorrect or invalid record as soon as possible and no later than the end of the shift or work period during which notification is received. The Department (through "Serious Error" messages) has the right to remove any record where a substantial question exists concerning the validity or accuracy of the record.
6) Each agency will respond to inquiries for confirmation from other agencies relative to the validity and currency of its LEADS records based on the level of priority requested, either urgent or routine.
7) Each agency will promptly cancel an entry when the agency is notified or when it becomes aware that the legal intent of its entry has been satisfied, i.e., stolen property has been recovered or the suspect has been apprehended or returned. The agency that entered a record is responsible for the accuracy of that record.

Section 1240.70 Validation of CHF Records

a) A record is valid if the CHF data in the agency's LEADS records are supported by documentation maintained by the agency.

b) CHF records in LEADS must be immediately removed when no longer valid. Promptness in entering, modifying, voiding, and cancelling records is essential to maintaining the integrity of the LEADS files.
c) All agencies having records in the LEADS CHF shall participate in the LEADS record quality-control activities initiated by the Department.

Section 1240.80 Dissemination of Data Obtained Through LEADS

a) The LEADS network and LEADS data shall not be used for personal purposes.
b) Personal or unofficial messages shall not be transmitted.
c) LEADS data shall not be sold.
d) LEADS data shall not be disseminated to any individual or organization that is not legally authorized to have access to the information.

Section 1240.90 Administrative and Training Responsibilities

All LEADS agencies must meet the following administrative responsibilities:

a) Appoint LEADS Agency Coordinator
    1) Every LEADS terminal agency is required to appoint one employee as its LEADS Agency Coordinator. Immediately upon appointment, the name of this person must be submitted to the LEADS Administrator.
    2) The minimum requirements for the appointed LEADS Agency Coordinator are:
        A) Must be an employee under the direct management control of the agency head;
        B) Must be certified through the LEADS User Certification Program prior to appointment and remain in certified status during time of appointment; and
        C) Must be thoroughly familiar with all LEADS regulations, policies, capabilities, and procedures.
    3) The duties of the LEADS Agency Coordinator include, but are not limited to:
        A) Serve as liaison with Department personnel;
        B) Coordinate training of all agency personnel on LEADS capabilities, procedures, regulations, and policies;
        C) Assist the agency head to ensure all LEADS regulations and policies are followed; and
        D) Provide input to LEADS personnel of the Department regarding problems and ideas for improvement of and changes to LEADS.
    4) Immediately upon the termination or reassignment of the LEADS Agency Coordinator, the agency head must appoint a new LEADS Agency Coordinator and notify the LEADS Administrator of the appointment.
b) Training Requirements
    1) LEADS user certification is mandatory for all LEADS agency personnel who have full access or less-than-full access to LEADS

functions.

2) LEADS User Certification Program training is administered by the Department.
3) User certification is awarded after successful completion of the LEADS User Certification Program and satisfaction of all its requirements for the level of access sought.
4) Biennially, each full access and less-than-full access LEADS user must be functionally retested and recertified.
5) Each LEADS agency shall maintain records of all LEADS training, testing, and proficiency affirmation.
6) Each LEADS agency shall provide basic LEADS training (within six months after employment or assignment) to all indirect users of LEADS and criminal justice practitioners who utilize LEADS to ensure effective use of the system and compliance with LEADS policy and regulation.
7) Each LEADS agency shall provide continuing access to information concerning changes or enhancements to LEADS to all indirect users of LEADS and criminal justice practitioners who utilize LEADS.
8) Each LEADS agency shall provide basic LEADS training regarding functionality, regulations, policy, audits, sanctions, and related civil liability to criminal justice administrators and upper-level managers within the agency.
9) User certification may be suspended or revoked by the Department for violation or non-compliance with laws, rules, regulations, or procedures. An individual whose certification is to be suspended or revoked will be informed of the reason for the action and the evidence supporting it. The individual will be provided an opportunity to respond prior to a suspension or revocation.

Section 1240.100 LEADS Terminal Agency Audits

a) Each LEADS terminal agency will be audited periodically by the Department. The agency will be notified prior to the audit.
b) The LEADS Agency Coordinator or designee must be present to assist the Department and make available all agency files, logs, or any other documentation required to be examined.
c) Following the audit, each LEADS terminal agency will receive a written analysis detailing the findings, recommendations, discussions, and requirements for compliance generated by the audit.
d) If an agency is found not in compliance with LEADS/NCIC policy, the agency head must respond in writing to the LEADS Administrator within 30 days after receiving the audit report with a plan of action that will place the agency within policy guidelines. Upon completion of these corrective measures, the agency head must notify the LEADS Administrator in writing that the agency has accomplished its planned objectives and is now in full compliance with LEADS/NCIC policy and regulations.
e) If the head of an agency not in compliance with LEADS/NCIC policy

fails to respond in writing to the LEADS Administrator within 30 days after receiving an audit report with a plan of action that will place the agency within policy guidelines or if the agency head fails to notify the LEADS Administrator in writing that the agency has accomplished its planned objectives and is now in full compliance with LEADS policy and regulations, the agency will be considered non-compliant and will be subject to suspension of all LEADS services or other sanctions.
f) If an agency refuses to cooperate in a Department audit, the agency will be considered non-compliant and will be subject to suspension of all LEADS services or other sanctions.

Section 1240.110 Non-Compliance/Sanctions

The Department may suspend all or any portion of LEADS service without prior notification as the result of an agency's non-compliance with laws, rules, regulations, or procedures.

a) Minor Violations (Low Risk)
When a violation occurs that does not threaten the integrity of LEADS or LEADS data, the LEADS Administrator will give written notice to the agency explaining the violation. If the matter is promptly addressed, no suspension of any LEADS access or service will occur.
b) Repeated, Continuous, Multiple, or Major Violations that Do Not Require Immediate Suspension (Moderate Risk)
When an agency is repeatedly or continuously in violation, has committed multiple violations or has committed a major violation not requiring suspension, the Director or designee shall set a hearing date, providing the agency with at least a 20-day advance written notice.
c) Major Violations Requiring Immediate Suspension (High Risk)
When a violation occurs that could seriously affect the integrity of LEADS or could threaten the safety of officers or the public, or is against the law, the Director may immediately suspend all or part of LEADS access or services without prior notice. When immediate suspension becomes necessary, the Director will notify the suspended agency and give the following:
1) A list of the services that have been suspended;
2) Alleged violations;
3) A hearing date that shall be within 10 days after the date of the immediate suspension. The Director may lift the suspension prior to the hearing for emergency or public safety needs.
d) Hearing Procedures
When a hearing has been set by the Director or designee, the following procedures will be followed:
1) Agency representatives may appear at the hearing;
2) The Leads Administrator or designee will present evidence that a violation has occurred or is occurring;
3) The agency representatives may present any evidence they choose

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULE

relevant and material to the alleged violation or to any corrective actions taken.

e) Director's Decision

At the conclusion of the hearing, the Director may:

1) Suspend service;
2) Find no violation;
3) End a suspension already imposed; or
4) Grant a period of time to correct the non-compliance. If the Director grants additional time to comply, the Director shall set a date for a subsequent hearing to review compliance with the terms of the Director's order. At the second hearing, the Director may exercise any option that could have been exercised at the original hearing.

CAPITAL DEVELOPMENT BOARD

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Procurement Practices

2) Code Citation: 44 Ill. Adm. Code 910

3)

Section Numbers:	Adopted Action:
910.110	Repeal
910.120	Repeal
910.150	Repeal

4) Statutory Authority: Implementing and authorized by Sections 9.06 and 16 of the Capital Development Board Act [20 ILCS 3105/9.06 and 3105/16] and the Illinois Procurement Code [30 ILCS 500].

5) Effective date of Repealer: December 4, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this repealer contain incorporations by reference? No

8) A copy of the adopted repealer is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: July 31, 1998; 22 Ill. Reg. 14031.

10) Has JCAR issued a Statement of Objections to this rule? No

11) A statement of the changes made between the proposed and adopted versions: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? JCAR requested no changes.

13) Will this repealer replace an emergency rule currently in effect? Yes.

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Repealer: This Part being repealed will be replaced by new adopted rules published in the same issue of the *Illinois Register*.

16) Information and questions regarding this adopted repealer shall be directed to:

Fredrick W. Hahn, Chief Counsel
Capital Development Board
3rd Floor, Wm. G. Stratton Bldg.
Springfield, Illinois 62706

CAPITAL DEVELOPMENT BOARD

NOTICE OF ADOPTED REPEALER

Telephone: 217/782-0700

CAPITAL DEVELOPMENT BOARD

NOTICE OF ADOPTED RULES

1) Heading of the Part: Procurement Practices

2) Code Citation : 44 Ill. Adm. Code 910

3)

Section Numbers:	Adopted Action:
910.90	New
910.100	New
910.110	New
910.120	New
910.130	New
910.140	New
910.150	New
910.160	New
910.170	New
910.180	New
910.190	New
910.200	New
910.210	New
910.220	New

4) Statutory Authority: Implementing and authorized by Sections 9.06 and 16 of the Capital Development Board Act [20 ILCS 3105/9.06 and 3105/16] and the Illinois Procurement Code [30 ILCS 500].

5) Effective date of Adopted Rules: December 4, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rule contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: July 16, 1998; 22 Ill. Reg. 14033.

10) Has JCAR issued a Statement of Objections to this rule? No

11) A statement of the changes made between proposal and adopted version:

Section 910.100: Added definitions for "A/E" and "Bid Documents."

Pursuant to JCAR comment, listed in Section 910.120 various portions of CDB's Standard Documents for Construction which pertain to the bidding process.

Pursuant to JCAR comment, revised Section 910.130 by relocating provisions

CAPITAL DEVELOPMENT BOARD

NOTICE OF ADOPTED RULES

pertaining to bidding requirements (see changes 910.120 and 910.140), and adding provisions on specifications.

Added Section 910.140 to describe how architect and engineer contracts are procured.

Renumbered Section 910.140 to 910.150 and clarified time requirements.

Renumbered Section 910.150 to 910.160 and clarified small purchase thresholds. Also, added a provision to explain methods for procuring construction manager services.

Pursuant to JCAR comment, renumbered Section 910.190 to 910.200, and added language to clarify change order/modification provisions.

Other changes made were minor technical corrections, grammatical and stylistic changes in response to comments made by JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rule replace an emergency rule currently in effect? Yes

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rules: This rulemaking implements and applies the requirements contained in the Illinois Procurement Code [30 ILCS 500].

16) Information and questions regarding this adopted rule shall be directed to:

DEVELOPMENT W. Hahn, Chief Counsel
Capital Development Board
3rd Floor, Wm. G. Stratton Bldg.
Springfield, Illinois 62706
Telephone: 217/782-0700

The full text of the adopted rules begins on the next page:

CAPITAL DEVELOPMENT BOARD

NOTICE OF ADOPTED RULES

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER XII: CAPITAL DEVELOPMENT BOARD

PART 910
PROCUREMENT PRACTICES

Section
910.90 Authority
910.100 Definitions
910.110 Procurement Code
910.120 Construction Contracts
910.130 Construction Project Specifications
910.140 Architect and Engineer Contracts
910.150 Protests
910.160 Alternative Procurement Methods
910.170 Alternative Dispute Resolution
910.180 Use of Department of Central Management Services
910.190 Retention Trust
910.200 Change Orders or Modifications
910.210 Use of Funds
910.220 Suspension and Debarment

AUTHORITY: Implementing and authorized by Sections 9.06 and 16 of the Capital Development Board Act [20 ILCS 3105/9.06 and 16] and the Illinois Procurement Code [30 ILCS 500].

SOURCE: Adopted at 2 Ill. Reg. 30, p. 140, effective July 27, 1978; amended at 4 Ill. Reg. 9, p. 233, effective February 14, 1980; amended at 5 Ill. Reg. 1890, effective February 17, 1981; amended and codified at 8 Ill. Reg. 20324, effective October 1, 1984; amended at 9 Ill. Reg. 17332, effective October 29, 1985; amended at 12 Ill. Reg. 9864, effective May 27, 1988; amended at 13 Ill. Reg. 8403, effective May 22, 1989; amended at 22 Ill. Reg. 1169, effective January 1, 1998; old Part repealed and new Part adopted by emergency rulemaking at 22 Ill. Reg. 14333, effective July 16, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 21848, effective DEC 4 1998.

Section 910.90 Authority

a) The Executive Director of the Capital Development Board (CDB) is established in the Illinois Procurement Code ("Code") [30 ILCS 500] as the Chief Procurement Officer for procurements for construction and construction-related services committed by law to the jurisdiction or responsibility of CDB. The Executive Director may appoint State Purchasing Officers to carry out any or all of the procurement functions.

CAPITAL DEVELOPMENT BOARD

NOTICE OF ADOPTED RULES

b) CDB is established by the Code and the Capital Development Board Act [20 ILCS 3105] as the construction agency for construction or remodeling of State-owned facilities. CDB may similarly act as may be provided by law or when so authorized at the request of another agency, whether State, local or federal.

c) CDB may delegate its authority, by agreement or master contract, as authorized by law and only with the concurrence of the Executive Director.

Section 910.100 Definitions

The following definitions shall apply to this Part:

"A/E" - Firm providing architectural and/or engineering professional services on construction projects.

"Bid" - An offer made by a bidder in response to a contract item advertised in an Invitation for Bids.

"Bid Documents" - Documents necessary for submittal of a bid on a CDB project, including but not limited to drawings, bid forms and the Standard Documents for Construction.

"Board" - Capital Development Board.

"Change Order" - A formal, written directive or agreement that amends a contract in order to address contingencies affecting the performance and completion of the contract, including but not limited to such matters as extra work, increases or decreases in quantities, additions or alterations to plans, special provisions or specifications, and adjustments or alterations specifically provided for in the contract. Change orders to A/E contracts may be referred to as "modifications".

"Code" - The Illinois Procurement Code [30 ILCS 500].

"Contract" - A written agreement between the Board and the contractor comprising such documents as set forth in each individual agreement, including change orders, and setting forth the obligations of the parties for the performance of the contract.

"Day" - A calendar day.

"Germane" - In relationship to the modification, alteration or amendment of the terms of a contract by change order, the term "germane" means a change that is related to the original terms of the contract but that is not so substantial a departure from the original as to constitute a new contract.

CAPITAL DEVELOPMENT BOARD

NOTICE OF ADOPTED RULES

"Responsible" - The capability, integrity and reliability of a bidder, offeror or contractor, in all respects that will assure good faith performance, to undertake and complete fully the requirements of a contract.

"Responsive" - In the context of bidding procedures, the compliance in all meaningful, material respects with the Invitation for Bids.

"Small Business" for purposes of determining whether at least 25% of the annual total value of CDB projects constitutes income to a small business, a small business is:

A direct contractor or subcontractor in a construction contract or a contract for professional architectural or engineering services; and

A firm with annual sales and receipts not exceeding $3,000,000; and

A firm that is independently owned and operated; and

A firm that is not dominant in its field of operations; and

A firm that is otherwise qualified to do business with CDB.

"Specifications" - The contractual body of directions, provisions, and requirements for performance of prescribed work. Specifications includes the Standard Documents for Construction for general application and repetitive use as well as specifications applicable to a specific project.

"User Agency" - the governmental agency or other entity for whom CDB carries out a construction project.

Section 910.110 Procurement Code

a) General
The principles of competitive bidding and economical procurement practices shall be applicable to all construction contracts of the Board, and all purchases, contracts and expenditure of funds shall be made in accordance with the Illinois Procurement Code [30 ILCS 500] and all other applicable statutes. The Standard Procurement Rules of the Department of Central Management Services (44 Ill. Adm. Code 1) will govern the procurement practices of the Capital Development Board to the extent that such rules are not in conflict with the rules and procedures of the Capital Development Board. In the event of conflict, the rules and procedures of the Capital Development Board shall apply. General conditions for procurements shall be set forth

in CDB's contract documents, which include the Standard Documents for Construction. In instances where CMS rules apply, CDB may enact rules that are complimentary, so that both may apply in a particular situation. CMS rules that shall apply to CBD procurement include, but are not limited to, the following:

1) Section 1.10(d)(7) relating to the definition of contracts necessary to prepare for anticipated litigation, which are not subject to Code requirements other than those in this Section.
2) Section 1.2010, Competitive Sealed Bidding, specifically subsections as follows:
   A) (i) Receipt, Opening and Recording of Bids.
   B) (j) Bid Evaluation and Award.
   C) (k) Documentation of Award.
   D) (l) Award to Other Than Low Bidder.
3) Section 1.2015, Competitive Sealed Proposals.
4) Section 1.2020(b) through (f) relating to determination whether a contract is under the statutory small contract limits.
5) Section 1.2030, Emergency Procurements.
6) Section 1.2035, Competitive Selection Procedures for Professional and Artistic Services.
7) Section 1.2036, Other Methods of Source Selection, specifically subsections as follows:
   A) (c) Master Contracts.
   B) (f) Federal Requirements.
   C) (h) Donations.
8) Section 1.2055(e), Performance Incentive Contracts.
9) Section 1.2060, Duration of Contracts - General.
10) Sections 1.6500 through 1.6520 relating to Governmental Joint Purchasing.

b) Procurement Bulletin
CDB is responsible under the Code for publishing a volume of the Illinois Procurement Bulletin. CDB's bulletin is available in hard copy, and electronically via the Internet (www.cdb.state.il.us) in two parts. One part entitled "Bid Information Newsletter" for construction contracts and the other entitled "Professional Services Bulletin" for architect/engineer services. CDB's Procurement Bulletin will be published or updated at least monthly but may be updated more frequently.

Section 910.120 Construction Contracts

Unless an exception authorized by the Code exists, CDB contracts for construction projects shall be competitively bid. Solicitations for bids shall be in conformance with the Illinois Procurement Code, the rules of the Department of Central Management Services and/or CDB, and with accepted business practices. Contracts shall be awarded in accordance with those authorities and with the guidelines set forth in "Standard Documents for Construction" (SDC) used by the Board unless otherwise specified in the

advertisement for bids published in the Procurement Bulletin, or as authorized by law.

Policies governing bid matters that are expressed in CDB's Standard Documents for Construction relating to the bidding process include the following:

a) Licensing
In addition to other statutory requirements, all bidders shall be responsible for proper licensing with the appropriate State agency in the trades the bidder will perform on the particular project, such as (but not limited to) roofing, plumbing, and asbestos abatement.

b) Obtaining Bid Documents
At the time of publishing an advertisement for bids, CDB shall make project plans, specifications and other bidding documents available to prospective bidders through the office(s) of the project Architect/Engineer (A/E), and other locations as may be deemed appropriate for the project, such as commercial "plan rooms."

c) Construction Administration Fee
As authorized by the CDB Act [20 ILCS 3105/9.02a], CDB may assess a Construction Administration Fee that shall be identified in the bid documents.

d) Reporting of Bid Document Errors or Inconsistencies
Bidders shall have an affirmative duty to examine bid documents and site conditions, and to report any discovered errors or inconsistencies to the project A/E. Bidders awarded a project will not be given change orders for extra payment or time extension for conditions that could reasonably have been discovered.

e) Addenda to Bid Documents
Addenda changing the bid documents prior to bid opening shall be issued in writing by the project A/E to all known plan holders a reasonable time prior to bid opening.

f) Alternates
When the estimated value of the work exceeds the available funding, portions of the work may be identified as alternates to a base bid for the most essential part of the work. The alternates may be additive or deductive valued bids for these lesser essential portions of the work. Prior to bid opening, the order of priority in which alternate bids may be accepted with the base bid may be announced. If not otherwise announced, the priority will be in the order listed on the bid form. The lowest bidder shall be determined by the amount of the base bid plus accepted alternates.
Prior to award, there will be not division of awards between base bid and accepted alternate bids. If not all the alternate bids are accepted at the award time, an alternate may be added to the project at a later time by change order if funding becomes available. If, however, acceptance of the alternate prior to award would have resulted in changing the lowest bidder, the alternate cannot be added by change order.

g) Agreements to Terms
By submitting a bid, the bidder agrees to all terms and conditions of

the SDC and other contract documents. Accordingly, submittal of conditions or qualifying statements on bids is unacceptable and cause for rejection of the bid.

h) Unit Prices
Unit price items may be included in project specifications only if stated a manner to clearly protect the State from unlimited increased quantities.

i) Bid changes
Prior to bid opening, bidders may change bids already submitted in a manner that does not reveal the total bid price, in writing or by telefax. Changes shall not be allowed after bid opening.

j) Bid Withdrawal
After bid opening, bid withdrawal shall be permitted only if the bidder establishes clearly and convincingly that the bid was founded on a credible error or omission.

k) Minority and Female Participation
CDB may impose minority and female work force participation and/or Minority and Female Business Enterprise participation as permitted by law, on projects determined to be appropriate, as a bidding or post-award requirement.

l) Bid Security
All bids shall include bid security in the form of a bid bond on CDB's form, a certified check, cashier's check, or bank draft in the amount of 10% of the base bid. If a bid bond is used, the surety issuing the bond must be acceptable to CDB.

m) Bid Rejection
Bids which are not in substantial conformance with the bid documents and whose non-conformance is determined to be material and unresponsive shall be rejected. Material deficiencies include but are not limited to the following:
1) Failure of the contractor to be prequalified;
2) A finding that the contractor is non-responsible;
3) Late submittal of the bid;
4) Deletion of original signatures to the extent that an intent to be bound by the bid is not apparent; or
5) Submission of a bid price that cannot be determined.

n) Technical Deficiencies
Technical deficiencies in bids may be remedied by the bidder within 7 days. Technical deficiencies include but are not limited to the following:
1) Failure to use proper bid forms;
2) Submission of a bid bond that is not on CDB's form;
3) Failure to include the Minority and Female Workforce Participation form; or
4) Failure to acknowledge an addendum to the work, but only if it does not change the amount of the bid.

o) Tie Bids
In instances where identical bids are submitted to CDB, the apparent

low bidder will be identified by the toss of a coin, properly witnessed and recorded.

Section 910.130 Construction Project Specifications

a) Subdivisions of the Work
In construction contracts in excess of $25,000, separate bidding will be specified for at least the five subdivisions of work enumerated by the Code generally as: plumbing, heating, ventilating, electric, and general. If appropriate to the project and advantageous to the State, additional subdivisions such as sprinkler work (fire protection) may be specified. In the event that the work in a particular subdivision is less than $30,000, or is an amount determined in writing by CDB to be so small compared to the other contracts that a separate contractor would adversely interfere with the scheduling and coordinating of the project, or so small that it is not likely that more than one bidder will bid, the work may be added to another subdivision as appropriate.

b) Product Substitutions
Bids for construction projects shall be based on providing all products, subcontractors or suppliers specified in the specifications. However, CDB specifications shall provide that a bidder may propose substitutions of a product, subcontractor or supplier upon review and approval by CDB's project A/E. The product substitution process may be utilized regardless of whether the specification calls for a sole source, and regardless of whether only brand names are listed. Substitutions not approved prior to bidding shall not be accepted after award if acceptance would require a change order increasing the amount of the contract.

Section 910.140 Architect and Engineer Contracts

Solicitation for procurement of services of architects/engineers (A/Es), or related professionals, shall be in accordance with the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535] and CDB's rules (44 Ill. Adm. Code 1000).

Section 910.150 Protests

The procedures of this Section will govern the resolution of protests received by the Board from an interested party concerning a contract solicitation.

a) Interested Party
In order to be considered an interested party, the protester must be or have been an actual bidder or offeror who demonstrates compliance in all respects with this Part and the terms of the subject Invitation for Bids or Request for Proposals.

b) Subject of the Protest
1) A protest may be filed regarding any phase of the solicitation process for a particular contract.

2) The subject of the protest shall concern fraud, corruption or illegal acts undermining the objectives and integrity of the procurement process.
3) Protest procedures of this Section do not apply to issues of prequalification, suspension or debarment.

c) Filing of a Protest
1) All protests shall be in writing and filed with the Chief Procurement Officer within 7 calendar days after the protester knows or should have known of the facts giving rise to the protest. Protests filed after the 7 calendar days period will not be considered. In addition, protests that raise issues of fraud, corruption or illegal acts affecting specifications, special provisions, supplemental specifications and plans must be received by the Chief Procurement Officer no later than 14 calendar days before the date set for opening of bids.
2) The protest shall be contained in an envelope clearly labeled "Protest." The written protest shall include as a minimum the following requirements:
A) The name, address, telephone and facsimile numbers of the protester.
B) The identification of the procurement or solicitation that is the subject of the protest.
C) All information establishing that the protester is an interested party.
D) A detailed statement of the factual and legal grounds of the protest, including all relevant documents and exhibits that demonstrate fraud, corruption or illegal acts having the effect of undermining the integrity of the procurement process.
E) All information establishing the timeliness of the protest.
F) The signature of the protester.

d) Stay of Action during Protest
When a protest has been timely filed and before an award has been made, CDB will make no award of the contract until the protest has been resolved, unless the award of the contract without delay is necessary to protect the interests of the State. When a protest has been filed after an award has been made, the protest will be denied.

e) Decision
1) A decision on a protest will be made as expeditiously as possible after receiving all relevant information.
2) The protest will be sustained only if it is determined by the Chief Procurement Officer that the protest conclusively demonstrates by the preponderance of relevant information submitted that fraud, corruption or illegal acts have occurred that undermine the integrity of the procurement process.
3) If the protest is sustained, the remedies available are limited to cancellation or revision of the solicitation, or readvertisement of the solicitation. Relief available does not include award of the contract to the protester.
4) The decision of the Chief Procurement Officer is final and conclusive unless clearly erroneous, arbitrary, capricious or contrary to law. (See Section 20-75 of the Code.)

Section 910.160 Alternative Procurement Methods

In lieu of competitive sealed bidding, CDB shall procure goods and services by the following or as otherwise allowed by statute or rule:

a) Small Contracts
1) As authorized by the Code, individual contracts for supplies or services not exceeding the following thresholds may be made without notice, competition or use of other method of procurement prescribed in the Code or this Part:
A) Any contract not exceeding $25,000;
B) Contracts for professional or artistic services not exceeding $20,000 that are nonrenewable and one year or less in duration;
C) Construction and construction-related contracts not exceeding $30,000; and
D) Any contract subject to action by the Procurement Policy Board under Code Section 20-20 to adjust threshold amounts for inflation or to modify the above small purchase amounts.
2) Section 30-35 of the Code provides that a construction contract change order may cause the obligation or expenditure of funds in excess of the original contract price provided that the subject of the change order is germane to the original contract. Section 30-35 of the Code further establishes the manner in which the amount of additional expenditure or obligation will be determined and authorized by the Board. CDB will approve construction contract change orders authorizing the obligation or expenditure of additional funds without supplemental procurement procedures in accordance with the following requirements and thresholds:
A) A construction contract change order that is germane and that causes the obligation or expenditure in excess of the amounts in Section 30-35(b) of the Code or of more than $30,000 in excess of the contract price, whichever is less, will not be authorized without supplemental procurement procedures unless the scope of the change order is approved as provided in Section 30-35 of the Code.
B) Determination of germaneness and the amount of additional expenditure or obligation thresholds will be determined in accordance with this Part and Section 30-35 of the Code.
C) Prior written approval will be made by the Board if the contemplated construction contract change order will cause an expenditure or obligation of funds of more than $30,000 in excess of the contract price. The written approval will state the reasons for the additional obligation or

expenditure and the basis for the germaneness determination.

D) For purposes of determining the scope of the change order and the value thereof that is subject to the requirements of this Section, the Board will consider the total net value of all added and deducted work functions related to the object of the change order and the work of the contract to be affected.

E) Notice of approved construction contract change orders will be published in the Capital Development Board Procurement Bulletin.

3) Estimated needs shall not be divided in any manner to avoid the use of an established method of procurement. (See Section 20-20(a) of the Code.)

b) Construction Manager Services

Procurement of a construction manager for project services, which may include, but are not limited to, scheduling, contractor coordination, and administration of pay requests, but not including design services, shall be made in accordance with Code Section 20-15 providing for competitive sealed proposals and CMS procurement rule Section 1.2035 entitled Competitive Selection Procedures for Professional and Artistic Services, and CMS rule Section 1.2015 that establishes procedures for competitive sealed proposals.

c) Emergency Contracts

1) A contract may be procured without the use of any other method of procurement prescribed in the Code or this Part when there exists a threat to public health or safety, or when an immediate contract is needed to repair State property in order to prevent or minimize loss or damage to State property, or to prevent or minimize serious disruption in State services, including but not limited to, completion of a defaulted contract, or to ensure the integrity of State records. (See Section 20-30(a) of the Code.)

2) For purposes of determining whether an emergency exists to prevent or minimize serious disruption in State services, State services include, but are not limited to, all activities committed by law to the jurisdiction or responsibility of the Board and the user agency, whether provided directly or indirectly by means of contract or intergovernmental agreement.

3) The Board will employ such competition as is practical under the emergency circumstances to abate the emergency situation, including the use of existing contracts.

4) Section 20-30(a) of the Code requires a written description of the basis for the emergency and reasons for the selection of the particular contractor to be included in the contract file. Section 20-30 of the Code further requires an affidavit to be filed with the Auditor General setting forth the amount expended, the name of the contractor and the basis for the emergency. For purposes of Board emergency procurements, the Code-required affidavits will serve as the Code-required written descriptions

retained in the contract file, and for purposes of publication notice as required by Code.

d) Sole Source and Limited Source

1) A contract may be procured from a single source contractor without competition or use of any other method of procurement prescribed in the Code or this Part when the single source contract is the only economically feasible source capable of providing the services, including professional and artistic services, contemplated or the material or product to be supplied. (See Section 20-25 of the Code.)

2) Examples of circumstances that could necessitate sole source procurement include but are not limited to:

A) when the compatibility of equipment, accessories, replacement parts, or service is a primary consideration;

B) when trial use, testing or the development of new technology is the object of the procurement;

C) when a sole supplier's item is to be procured for resale;

D) when utility services are to be procured;

E) when the surety providing a performance bond tenders a completion contractor, acceptable to the Board, to complete a defaulted contract;

F) when the item is copyrighted or patented and the item is not available except from the holder of the copyright or patent or service area licensee; and

G) when utility or other private property is to be relocated or otherwise adjusted by the owner to accommodate a Board project.

3) Change Orders. Change orders to existing contracts germane to the original contract that are necessary or desirable to complete the project, and that can be best accomplished by the contract holder, may be procured under this Section.

4) Bulletin. The Board shall publish notice of intent to contract on a sole source basis in the Capital Development Board Procurement Bulletin at least 14 days prior to execution of the contract. (See Section 20-25 of the Code.)

e) Illinois Correctional Industries

Procurement from Illinois Correctional Industries constitutes contracting between State governmental bodies, exempt from Procurement Code requirements, and shall be done in accordance with CMS rules and this Part. Such procurements may utilize an annual master contract with agreed-upon unit prices for construction services, against which sub-orders may be placed for specific CDB projects.

f) Art-in-Architecture Program Procurement

Works of art procured for CDB construction projects pursuant to Section 14 of the CDB Act shall be in accordance with selection procedures developed by the Fine Arts Review Committee and CDB, in consultation with the Public Arts Advisory Committee.

CAPITAL DEVELOPMENT BOARD

NOTICE OF ADOPTED RULES

Section 910.170 Alternative Dispute Resolution

To resolve disputes related to the performance of construction projects, whether in design phase or construction phase, the parties to the dispute shall utilize alternative dispute resolution methods as required by the contract or bid documents. At a minimum, alternative dispute resolutions shall be a condition precedent to the filing of any court action valued in excess of $50,000. This Section shall not apply to mechanics lien actions, unless the parties thereto so consent, nor to contract terminations, CDB's right to carry out the work, and non-project matters such as suspension of prequalification.

Section 910.180 Use of Department of Central Management Services

All office supplies, equipment and commodities required for the operation of the Capital Development Board shall be purchased in accordance with Standard Procurement Rules of the Department of Central Management Services and pursuant to the appointment by CMS of a State Purchasing Officer.

Section 910.190 Retention Trust

a) Contractors may elect to have retention deposited in a trust provided that:
   1) The project is funded by direct appropriation to CDB;
   2) the contract exceeds $300,000; and
   3) the specified contract time is 360 calendar days or longer.
b) Retention Trust Agreement must be entered into before application by the contractor for the first payment. The agreement will include, but not be limited to the following:
   1) the amount to be deposited;
   2) terms and conditions of payment in case of default by the contractor;
   3) termination upon completion, default, or other breach; and
   4) the contractor's responsibility for obtaining the written consent of the bank trustee and for paying all costs and fees associated with the trust.
c) Only CDB's retention trust agreement form is acceptable. In the event the contractor fails to deliver the trust agreement duly executed by the contractor and the bank prior to, or at the time of, receipt of the first partial payment, CDB may not execute the trust agreement. CDB may cancel the retention trust agreement for reason of non-performance and demand return of any deposits by the bank.

Section 910.200 Change Orders or Modifications

a) The Board shall set staff approval levels for construction change orders or modifications with Board approval required for amounts deemed significant enough to be appropriate for Board-level approval of change orders or modifications, when CDB determines in writing that a change is germane to the original contract
b) Only work that is germane to the original contract shall be added by change order or modification. Proposed change orders or modifications that are determined by CDB to not be germane to the original contract shall be procured in accordance with the Code and CDB rules.
c) All change orders and modifications shall be in writing. Prior to the execution of the actual change order or modification, changed work may proceed if authorized in writing according to the approval levels authorized by the Board, when so provided contractually.
d) For purposes of determining the scope of the change order and the value thereof that is subject to the requirements of this Section, the Board will consider the total net value of all added and deducted work functions related to the object of the change order and the work of the contract to be affected.
e) Notice of approved change orders and modifications shall be reported in CDB's Procurement Bulletin.

CAPITAL DEVELOPMENT BOARD

NOTICE OF ADOPTED RULES

Section 910.210 Use of Funds

CDB construction funds shall not be used for routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property, which would typically be covered by operation and maintenance funds of the user agency nor for reimbursement of user agencies for administration, staff, or other costs.

Section 910.220 Suspension and Debarment

Any person or firm prequalified with CDB may be suspended for a period up to 5 years, or may be debarred for a period of 5 years up to a permanent debarment in accordance with 44 Ill. Adm. Code 980. Causes for suspension or debarment are set forth in the Code, other statutes, and 44 Ill. Adm. Code 980.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED RULES

1) Heading of the Part: Procedures for Reporting Releases of Livestock Waste from Lagoons

2) Code Citation: 35 Ill. Adm. Code 580

3)

Section Numbers:	Adopted Action:
580.100	New Section
580.101	New Section
580.102	New Section
580.103	New Section
580.104	New Section
580.105	New Section
580.106	New Section
580.107	New Section
580.200	New Section
580.300	New Section

4) Statutory Authority: Implementing and authorized by Section 15 of the Livestock Management Facilities Act [510 ILCS 77/15] (see P.A. 90-565, effective June 1, 1998); and Section 4(h) of the Environmental Protection Act [415 ILCS 5/4(h) (1996)]

5) Effective Date of Rule: December 4, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this adopted rule contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in the Illinois Register: 22 Ill. Reg. 7091, April 24, 1998

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version:

1. In the Table of Contents at 580.105, by adding "from a Lagoon" after "Waste".

2. In the title of Section 580.105, by changing "From" to "from".

3. In Section 580.106, added "and" after "contain".

4. In Section 580.200(c), added "by the Agency" after "forwarded" and deleted "by the Agency" after "occurred".

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED RULES

5. In Section 580.200(d), added "by the Agency" after "forwarded" and deleted "by the Agency" after "occurred".

12) Have all changes agreed upon by the Agency and JCAR been make as indicated in the agreement letter issued by JCAR? Yes

13) Will this rule replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rules: These rules specify the procedure to be used by the owner or operator of a livestock waste lagoon to report a release of livestock waste from a lagoon to the Illinois Environmental Protection Agency.

16) Information and questions regarding this adopted rule shall be directed to:

Mr. Tim Kluge
Manager, Field Operations Section
Bureau of Water Pollution Control
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

The full text of the Adopted Rules begins on the next page:

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED RULES

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE E: AGRICULTURE RELATED WATER POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 580
PROCEDURES FOR REPORTING RELEASES OF LIVESTOCK WASTE FROM LAGOONS

Section

AUTHORITY: Implementing and authorized by Section 15 of the Livestock Management Facilities Act [510 ILCS 77/15] (see P.A. 90-565, effective June 1, 1998); and Section 4(h) of the Environmental Protection Act [415 ILCS 5/4(h)].

SOURCE: Adopted at 22 Ill. Reg. 21863, effective DEC 4 1998.

Section 580.100 Introduction

This Part 580 contains Illinois Environmental Protection Agency (Illinois EPA or Agency) rules for the procedure that owners or operators of livestock waste lagoons that release livestock waste must follow to satisfy their obligation under Section 15(d) of the Livestock Management Facilities Act [510 ILCS 77/15(d)] and Section 4(h) of the Environmental Protection Act [415 ILCS 5/4(h)], and the procedure that the Illinois EPA will follow to distribute or provide access to that information.

Section 580.101 Scope

This Part 580 contains the procedures for reporting releases and the procedures for distribution of that information. These regulations are cumulative with conditions, effluent limitations and other requirements established under the Illinois Environmental Protection Act [415 ILCS 5], regulations of the Illinois Pollution Control Board, the federal Water Pollution Control Act (33 U.S.C. 1251), as now or hereafter amended, and regulations pursuant thereto, including terms and conditions of National Pollutant Discharge Elimination System (NPDES) permits issued by the Agency and penalties under Title XII of the Environmental Protection Act [415 ILCS 5/Title XII].

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED RULES

Section 580.102 Applicability

The regulations in this Part 580 apply to the owners or operators of livestock waste lagoons that release livestock waste as those terms are defined in Section 580.104.

Section 580.103 Purpose

The purpose of this Part 580 is to promote the prompt and effective notification of any release of livestock waste from a lagoon to minimize damage to the environment and to protect the health of our citizens.

Section 580.104 Definitions

Terms used in this Part have the meaning specified in the Livestock Management Facilities Act [510 ILCS 77] or the Environmental Protection Act [415 ILCS 5]. The following terms have the meanings specified:

"Agency" means the Illinois Environmental Protection Agency.

"Department" means the Illinois Department of Agriculture.

"Lagoon" means any excavated, diked, or walled structure or combination of structures designed for biological stabilization and storage of livestock wastes. A lagoon does not include structures such as manufactured slurry storage structures or pits under buildings as defined in rules under the Environmental Protection Act concerning agriculture related pollution. [510 ILCS 77/10.25]

"Livestock waste" means livestock excreta and associated feed losses, bedding, wash waters, sprinkling waters from livestock cooling, precipitation polluted by falling on or flowing onto an animal feeding operation, and other materials polluted by livestock. [510 ILCS 77/10.35]

"Owner or Operator" means any person who owns, leases, controls, or supervises a livestock management facility or livestock waste-handling facility. [510 ILCS 77/10.50]

"Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, State agency, or any other legal entity or their legal representative, agent, or assigns. [510 ILCS 77/10.55]

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, or dumping of livestock waste from a lagoon into the environment. From a lagoon does not include from trucks or from application vehicles lacking a

direct and continuous connection to the lagoon. For purposes of this Part, a release does not include the normal application of fertilizer such as the application of livestock waste to crop land at agronomic rates established by guidelines of the Agency, regulations of the Illinois Pollution Control Board or in a waste management plan approved by the Department for the crop grown. A release is not application to a grassed area under 35 Ill. Adm. Code 506.303(r), use of a runoff field application system under 35 Ill. Adm. Code 501.404(d) or to small temporary accumulations of surface water as a result of precipitation or irrigation. Air emissions are not releases under this Part.

"Waters" means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State. [415 ILCS 5/3.56]

Section 580.105 Method of Reporting a Release of Livestock Waste from a Lagoon

a) An owner or operator of a livestock waste lagoon shall report any release of livestock waste from the lagoon within 24 hours after the discovery of the release. Reports of releases to surface waters, including to sinkholes, drain inlets, broken subsurface drains or other conduits to groundwater or surface waters, shall be made upon discovery of the release, except when such immediate notification will impede the owner's or operator's response to correct the cause of the release or to contain the livestock waste, in which case the report shall be made as soon as possible but no later than 24 hours after discovery.

b) The report required under subsection (a) shall be given to the Illinois Environmental Protection Agency through the Illinois Emergency Management Agency by calling:

1-800-782-7860

1-217-782-7860
(if calling from outside Illinois).

Section 580.106 Contents of Report

The report required under Section 580.105(a) must include, as a minimum, each of the following to the extent that it is known at the time of the report:

a) name and telephone number of the person reporting the release;
b) county, distance and direction from nearest town, village or municipality of the release;
c) an estimate of the quantity in gallons that was released, and an estimate of the flow rate if the release is ongoing;
d) area into which the release occurred (field, ditch, stream, or other

description) and apparent environmental impacts of the release;
e) time and duration of the release;
f) the names and telephone numbers of persons who may be contacted for further information;
g) dangers to health or the environment resulting from the release;
h) actions taken to respond to, contain and mitigate the release; and
i) name of facility and mailing address.

Section 580.107 Reporting of Releases to Groundwater

If an owner or operator of a lagoon required to implement groundwater monitoring under 35 Ill. Adm. Code 506.204(d) submits a report to the Department of a proposed response action required under 35 Ill. Adm. Code 506.206(g)(2), the owner or operator will submit that report to the Agency at the same time.

Section 580.200 Distribution of Information

a) Reports under this Part are required by Section 15(d) of the Livestock Management Facilities Act [510 ILCS 77/15(d)] and Section 4(h) of the Environmental Protection Act [415 ILCS 5/4(h)], and are therefore not privileged under Section 52.2(h)(1) of the Environmental Protection Act [415 ILCS 5/52.2(h)(1)].
b) All reports under Sections 580.105 and 580.300 will be forwarded to the Department by the Agency.
c) All reports under this Part indicating, or with respect to which subsequent investigations reveal, releases to surface waters will be forwarded by the Agency to the Illinois Department of Natural Resources and to the health department of the county in which the release occurred.
d) All reports under this Part indicating, or with respect to which subsequent investigations reveal, releases to groundwater will be forwarded by the Agency to the health department of the county in which the release occurred.
e) All reports under this Part are accessible from the Illinois EPA through the Freedom of Information Act [5 ILCS 140] and Agency regulations at 2 Ill. Adm. Code 1826.

Section 580.300 Follow-up Written Report

An owner or operator of a livestock waste lagoon who reports by telephone any release of livestock waste from the lagoon shall provide a follow-up written report of the release within 5 days after the discovery of the release. The report shall confirm and update the information provided by telephone pursuant to Section 580.106. Written reports shall be addressed to:

Illinois Environmental Protection Agency
Bureau of Water

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED RULES

Compliance Assurance Section
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Medicaid Community Mental Health Services Program

2) Code Citation: 59 Ill. Adm. Code 132

3) Section Numbers: 132.30 — Adopted Action: Amendment

4) Statutory Authority: Implementing and authorized by the Community Services Act [405 ILCS 30] and Section 15.3 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15.3].

5) Effective Date of Amendments: December 1, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: August 14, 1998, 22 Ill. Reg. 14503

10) Has JCAR Issued a Statement of Objections to these Amendments? No

11) Difference(s) between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rule replace an Emergency Rule(s) currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rule(s): Section 132.30 is being amended to delete subsection (h). Subsection (h) is in conflict with Section 132.91. Language in Section 132.91, adopted effective June 25, 1997 replaces Section 132.30(h). In addition, the address for the Department of Human Services' office identified in subsection (c) has been changed to reflect the office's current title.

Note: This rulemaking was recodified from the Department of Mental Health and Developmental Disabilities to the Department of Human Services at 21 Ill. Reg. 9321, effective July 1, 1997.

16) Information and answers to questions regarding this adopted amendment shall be directed to:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
(217) 785-9772

The full text of Adopted Amendment begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 59: MENTAL HEALTH
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES

PART 132
MEDICAID COMMUNITY MENTAL
HEALTH SERVICES PROGRAM

SUBPART A: GENERAL PROVISIONS

SUBPART B: PROVIDER ADMINISTRATIVE REQUIREMENTS

SUBPART C: UTILIZATION REVIEW AND CONTINUITY OF SERVICES

SUBPART D: CLINIC SERVICES

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

AUTHORITY: Implementing and authorized by the Community Services Act [405 ILCS 30] and Section 15.3 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15.3].

SOURCE: Emergency rules adopted at 16 Ill. Reg. 211, effective December 31, 1991, for a maximum of 150 days; new rules adopted at 16 Ill. Reg. 9006, effective May 29, 1992; amended at 18 Ill. Reg. 15593, effective October 5, 1994; emergency amendment at 19 Ill. Reg. 9200, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16178, effective November 28, 1995; amended at 21 Ill. Reg. 8292, effective June 25, 1997; recodified from the Department of Mental Health and Developmental Disabilities to the Department of Human Services at 21 Ill. Reg. 9321; amended at 22 Ill. Reg. 21870, effective DEC 1 1998.

SUBPART A: GENERAL PROVISIONS

Section 132.30 Application and Certification Process

a) Any agency having a contract with the Department, DCFS or DOC for provision of mental health services, with DCFS for the provision of child welfare services or youth services or with DOC for the provision of youth treatment, rehabilitative or transitional services may apply for certification as a provider. Successful applicants will be

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

certified by the Department or DCFS and enrolled as a provider in the Illinois medical assistance program by the Department of Public Aid pursuant to 89 Ill. Adm. Code 140.11.

b) DCFS is authorized to perform the functions ascribed to the Department in this Section and Sections 132.35 through 132.55, in relation to human service agencies contracting with DCFS or DOC as specified in subsection (d) of this Section.

c) Applications may be obtained by submitting a request in writing to:

Department of Human Services
Accreditation, Licensure and Certification
~~Office of Accreditation and Licensure~~
405 Stratton Building
Springfield, Illinois 62765

or

Department of Children and Family Services
Office of Medicaid Certification
406 East Monroe Street
Springfield, Illinois 62701

d) The applicant shall submit to the Department or DCFS a completed "Application for Certification of Medicaid Community Programs" with all necessary accompanying components in accordance with the following:

1) An applicant intending to contract under this Part solely with the Department for children and adolescents and/or adult Medicaid community mental health services shall submit its completed application to the Department; or

2) An applicant intending to contract under this Part solely with DCFS or DOC for Medicaid community mental health services for children and adolescents shall submit its completed application to DCFS; or

3) An applicant intending to contract under this Part with both the Department and DCFS for Medicaid community mental health services for children and adolescents shall submit its application to either the Department or DCFS; or

4) An applicant intending to contract under this Part with the Department, DCFS or DOC for Medicaid community mental health services for children and adolescents and with the Department for adult Medicaid community mental health services shall submit its completed application to the Department.

e) At the discretion of the Department or DCFS, agencies submitting applications which have all components attached may be certified in accordance with the procedures outlined in either subsection (f) or (g) of this Section.

f) For applications that have attached to them, at a minimum, a staffing

roster, evidence of compliance with State and local ordinances and codes relating to fire safety for all site(s) where Medicaid reimbursable services are being provided, documentation of compliance from a licensed plumber and electrician that any structure to be used as a site is in compliance with the codes and standards pertaining to the licensing and regulation of plumbers and the National Electrical Code (see Section 132.90) and a copy of the applicant's financial audit for the last fiscal year if it is not on file with the Department or DCFS, the Department or DCFS shall conduct an on-site review within 40 working days after the receipt of the application.

1) The on-site review shall determine compliance with Level I and Level II requirements of this Part. The applicant shall demonstrate full compliance with the following Level I requirements:
   - A) Section 132.80;
   - B) Section 132.85;
   - C) Section 132.90;
   - D) Section 132.95;
   - E) Section 132.100(a), (c), (d), (e), (h) and (i);
   - F) Section 132.105;
   - G) Section 132.115;
   - H) Section 132.120(a), (b), (c), (e), (g), (h) and (i);
   - I) Section 132.125(a), (d), (e), (f) and (h);
   - J) Section 132.130;
   - K) Section 132.135(a)(1), (a)(2), (a)(4), (b)(1), (b)(2)(A), (b)(2)(D) and (c)(1);
   - L) Section 132.140 (a) through (c)(1);
   - M) Section 132.145(a)(2), (a)(3), (a)(4), and (a)(5);
   - N) Section 132.150(a), (b), (c)(1), (c)(2), (c)(3), (c)(5) through (c)(9), (d)(2), (d)(4) through (d)(9), (e)(1) through (e)(5), (f)(1), (f)(2), (f)(4), (f)(6), (f)(7), (f)(8), (g), (h), (i), (j), (k), (l), (m) and (n);
   - O) Section 132.155(a), (b), (d)(2) through (d)(8), (e)(3), (e)(4), (e)(5), (e)(7), (e)(8), (f), (g)(1), (g)(2), (g)(4), (h), (i)(1), (i)(3), (j)(1), (j)(3), (k)(1), (k)(4), (l)(1) and (l)(4);
   - P) Section 132.160;
   - Q) Section 132.165; and
   - R) Section 132.170(a), (b), (d)(1), (d)(3), (e)(1) and (e)(3).
2) All requirements not identified in subsection (f)(1) of this Section are deemed Level II requirements with which the applicant shall demonstrate substantial compliance.
3) For Section 132.90, the applicant's site(s) on which the Medicaid community mental health program services are offered shall be reviewed for compliance with applicable federal, State, and local laws and ordinances pertaining to safety and accessibility. For

the program specific Subparts, a review of a sample of Medicaid-eligible client records shall be conducted. Such sample shall consist of a minimum of 10 records from the applicant's Medicaid-eligible clients. In the event the 10 records of Medicaid-eligible clients are not available, the sample will consist of all available Medicaid-eligible client records.

4) If the on-site review confirms compliance with the requirements of this Part as specified in subsections (f)(1) and (2) of this Section, the Department or DCFS shall issue a letter of certification within 20 working days from the date of completion of the on-site review and send the Medicaid enrollment forms to the applicant. Certification shall be effective the date of the first day of the on-site review.
5) If the on-site review does not confirm compliance with the requirements of this Part as specified in subsections (f)(1) and (2) of this Section, the Department or DCFS shall report deficiencies to the applicant in an exit conference. The Department or DCFS shall also issue to the applicant, within 40 working days, a notice of deficiencies enumerating those standards of this Part with which the applicant is not in compliance. The Department or DCFS may certify a provider for participation in the program at the conclusion of the exit conference, if the applicant agrees in writing to correct all Level I deficiencies.
   - A) The certified provider shall submit a plan of correction for the deficiencies within 25 working days after the date of the postmark on the written notice of deficiencies. The plan of correction shall identify the actions that have been, or will be, taken in order to come into compliance with this Part and the time-frames for implementation of the action. Time-frames for implementation of action shall not exceed three months except when deficiencies relate to major structural deficiencies related to physical accessibility of the site(s) for persons with disabilities. In such instances, implementation must occur before the end of the next complete State fiscal year following the fiscal year during which the deficiency was first documented. Applicants required to correct deficiencies related to physical accessibility may be certified in the interim upon effecting measures to reasonably accommodate persons with disabilities.
   - B) The Department or DCFS shall notify the certified provider within 20 working days after receipt and approval of the plan of correction. Providers whose certification is continued based on the Department's or DCFS' approval of their plan of correction shall be liable for any claims disallowed due to non-compliance with this Part.
   - C) If the plan of correction does not effectively address the

action which has been or will be taken to meet the standards for compliance, the Department or DCFS shall notify the certified provider within 20 working days. The certified provider shall resubmit an acceptable plan of correction within 10 days after the notice or the Department or DCFS shall act to suspend or terminate certification.

D) If the certified provider fails to respond to the notice of deficiencies within 25 working days after the postmark date on the notice of deficiencies with a plan of correction, the Department or DCFS shall act to suspend or terminate certification.

g) Applications which have attached to them all components identified in Section 132.Appendix A shall be reviewed for compliance with this Part. Applications missing any components will not be accepted as complete and the time-frames of this Section pertaining to applications shall not apply. The applicant shall be notified in writing of missing components within 20 working days after the receipt of the application. The applicant shall submit any missing components within 25 working days after receipt of the written notification. Applications still missing components at this time shall be returned to the applicant.

1) If the application components are in compliance with this Part, the Department or DCFS shall issue a letter of certification within 20 working days after having received the application and send the Medicaid enrollment forms to the provider. The effective date of certification shall be the date the review of the application was completed.

2) If the application includes all of the components, but one or more of the components is not in compliance with this Part, the applicant shall be notified in writing within 20 working days after receipt of the completed application of identified deficiencies. The applicant shall submit corrected documentation or an acceptable plan of correction for these deficiencies within 25 working days after the postmark date on the notice of deficiencies. The plan of correction shall identify the actions that have been, or will be, taken in order to come into compliance with this Part and the time-frames for implementation of the action. If the applicant does not respond with a plan of correction within the 25 working days, the application will be considered withdrawn and returned to the applicant.

3) Upon receipt and approval of the corrected documentation or the plan of correction for the identified deficiencies, the Department or DCFS shall notify the applicant and issue a letter of certification and send the Medicaid enrollment forms to the applicant. The effective date of certification shall be the date on which the corrected documentation is approved or the plan of correction is implemented except when deficiencies relate to major structural deficiencies as explained in subsection (g)(4)(D) of this Section.

4) The Department or DCFS shall schedule an on-site review to verify compliance with this Part within six months after initial certification when certification has been issued based solely on a review of the application components specified in Section 132.Appendix A.

A) The on-site review shall determine compliance with Level I and Level II requirements of this Part. The applicant shall demonstrate full compliance with the following Level I requirements:

i) Section 132.80;
ii) Section 132.85;
iii) Section 132.90;
iv) Section 132.95;
v) Section 132.100(a), (c), (d), (e), (h) and (i);
vi) Section 132.105;
vii) Section 132.115;
viii) Section 132.120(a), (b), (c), (e), (g), (h) and (i);
ix) Section 132.125(a), (d), (e), (f) and (h);
x) Section 132.130;
xi) Section 132.135(a)(1), (a)(2), (a)(4), (b)(1), (b)(2)(A), (b)(2)(D) and (c)(1);
xii) Section 132.140;
xiii) Section 132.145(a)(1) through (a)(5);
xiv) Section 132.150(a), (b), (c)(1), (c)(2), (c)(3), (c)(5) through (c)(9), (d)(2), (d)(4) through (d)(9), (e)(1) through (e)(5), (f)(1), (f)(2), (f)(4), (f)(6), (f)(7), (f)(8), (g), (h), (i), (j), (k), (l), (m) and (n);
xv) Section 132.155(a), (b), (d)(2) through (d)(8), (e)(3), (e)(4), (e)(5), (e)(7), (e)(8), (f), (g)(1), (g)(2), (g)(4), (h), (i)(1), (i)(3), (j)(1), (j)(3), (k)(1), (k)(4), (l)(1) and (l)(4);
xvi) Section 132.160;
xvii) Section 132.165; and
xviii) Section 132.170(a), (b), (d)(1), (d)(3), (e)(1) and (e)(3).

B) All requirements not identified in subsection (g)(4)(A) of this Section are deemed Level II requirements with which the applicant shall demonstrate substantial compliance.

C) The provider's site(s) on which Medicaid community mental health program services are offered shall be reviewed for compliance with applicable federal, State, and local laws and ordinances pertaining to safety and accessibility. For the program specific Subparts, a retrospective review of a sample of Medicaid-eligible client records shall be conducted. Such sample shall consist of a minimum of 10 records of the provider's Medicaid-eligible clients. In the

event that 10 Medicaid-eligible client records are not available, the sample will consist of all available Medicaid-eligible client records.

D) If the on-site review verifies compliance with the requirements as specified in subsections (g)(4)(A) and (B) of this Section, the Department or DCFS shall issue a letter of verification within 20 working days from the date of completing the on-site review.

E) If the on-site review does not verify compliance with the requirements of this Part as specified in subsections (g)(4)(A) and (B) of this Section, the Department or DCFS shall report deficiencies to the provider during an exit conference. The Department or DCFS shall also issue, within 20 working days after the on-site review, a notice of deficiencies to the provider enumerating those standards of this Part with which the provider is not in compliance.

F) The provider is required to submit a plan of correction for the deficiencies within 25 working days after the postmark date on the written notice of deficiencies. The plan of correction shall identify the actions that have been, or will be, taken in order to come into compliance with this Part and the time-frames for implementation of the action. Time-frames for implementation of action shall not exceed three months except when deficiencies relate to major structural deficiencies related to physical accessibility of the site(s) for persons with disabilities. In such instances, implementation must occur before the end of the next complete State fiscal year following the fiscal year during which the deficiency was first documented in writing. Providers required to correct deficiencies related to physical accessibility may be certified in the interim upon effecting measures to reasonably accommodate persons with disabilities.

G) If the provider fails to respond to the notice of deficiencies within 25 working days after the postmark date on the notice of deficiencies with an acceptable plan of correction, the process to suspend or terminate shall be initiated.

H) The Department or DCFS shall notify the provider and, within 20 working days after receipt and approval of the plan of correction, shall issue a letter approving continuation of the certification period. Providers certified based on the Department's or DCFS' approval of their plan of correction shall be liable for any claims disallowed due to non-compliance with this Part.

~~h) Applicants which are fully accredited by the Joint Commission on Accreditation of Healthcare Organizations or the Commission on Accreditation of Rehabilitation Facilities (Standards Manual for Organizations Serving People with Disabilities (Commission on Accreditation of Rehabilitation Facilities, 101 North Wilmot Road, Tucson, Arizona 85711 (1992))) or the Council on Accreditation of Services for Families and Children, Inc. (Manual for Agency Accreditation (Council on Accreditation of Services for Families and Children, Inc., 520 8th Avenue, Suite 2202B, New York, New York 10018 (1992))) or the Accreditation Council on Services for People with Developmental Disabilities (Standards for Services for People with Developmental Disabilities (Accreditation Council on Services for People with Developmental Disabilities, 8100 Professional Place, Suite 204, Landover, Maryland 20785 (1990))) or for applicants licensed by the Department at 77 Ill. Adm. Code 2058 (Licensure of Alcoholism and Substance Abuse Treatment, Intervention and Research Programs) shall not have the standards specified in Sections 132.65, 132.70 and 132.75 examined during the on-site review, but are required to comply with all of the standards. These applicants shall not have standards in Section 132.90 examined during the on-site review for any site included in the licensure accreditation process but are required to comply with all of these standards.~~

~~Organizations Serving People with Disabilities (Commission on Accreditation of Rehabilitation Facilities, 101 North Wilmot Road, Tucson, Arizona 85711 (1992))) or the Council on Accreditation of Services for Families and Children, Inc. (Manual for Agency Accreditation (Council on Accreditation of Services for Families and Children, Inc., 520 8th Avenue, Suite 2202B, New York, New York 10018 (1992))) or the Accreditation Council on Services for People with Developmental Disabilities (Standards for Services for People with Developmental Disabilities (Accreditation Council on Services for People with Developmental Disabilities, 8100 Professional Place, Suite 204, Landover, Maryland 20785 (1990))) or for applicants licensed by the Department at 77 Ill. Adm. Code 2058 (Licensure of Alcoholism and Substance Abuse Treatment, Intervention and Research Programs) shall not have the standards specified in Sections 132.65, 132.70 and 132.75 examined during the on-site review, but are required to comply with all of the standards. These applicants shall not have standards in Section 132.90 examined during the on-site review for any site included in the licensure accreditation process but are required to comply with all of these standards.~~

i) Initial certification shall be for a three-year period. Any changes during the certification period which affect the ability of the provider to deliver services in compliance with the requirements of this Part shall be reported to the Department or DCFS.

j) When a decision is made to not certify an applicant, the applicant may appeal the decision and request a hearing in accordance with Section 132.55 of this Part and Section 10-25 of the Illinois Administrative Procedure Act [5 ILCS 100/10-25].

(Source: Amended at 22 Ill. Reg. 21870, effective DEC 1 1998)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Duck, Goose and Coot Hunting

2) Code Citation: 17 Ill. Adm. Code 590

3)

Section Numbers:	Adopted Action:
590.20	Amendments
590.60	Amendments

4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10], and Migratory Bird Hunting (50 CFR 20, effective September 26, 1990).

5) Effective Date of Amendments: December 3, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: September 11, 1998, 22 Ill. Reg. 16137

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: Language in this Part is being amended to limit the number of shot shells a Canada goose hunter may take to the field.

16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price
Department of Natural Resources
524 S. Second Street, Room 430
Springfield IL 62701-1787

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

217/782-1809

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 590
DUCK, GOOSE AND COOT HUNTING

Section
590.10 Statewide Regulations
590.15 Duck, Goose and Coot General Hunting Regulations on Department-Owned and -Managed sites Listed in Sections 590.40 and 590.50
590.20 Permit Controlled Department Sites Only - Duck, Goose and Coot Hunting
590.25 Illinois Youth Waterfowl Hunting Permit Requirements
590.26 Illinois Youth Duck Hunting Permit Requirements (Repealed)
590.30 Duck, Goose and Coot General Hunting Regulations on all Department-Owned and-Managed Sites (Repealed)
590.40 Check Station Department Sites Only - Duck, Goose and Coot Hunting
590.50 Non-Check Station Department Sites Only - Duck, Goose and Coot Hunting
590.60 Various Other Department Sites - Duck, Goose and Coot Hunting
590.70 Ohio River
590.80 Early and Late Goose (all species) Hunting Regulations on Department Sites
EXHIBIT A The Non-Toxic Shot Zones of Illinois (Repealed)

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10], and Migratory Bird Hunting (50 CFR 20, effective September 26, 1990).

SOURCE: Adopted at 5 Ill. Reg. 8857, effective August 25, 1981; emergency amendment at 5 Ill. Reg. 11386, effective October 14, 1981, for a maximum of 150 days; codified at 5 Ill. Reg. 10638; Part repealed at 6 Ill. Reg. 9647, effective July 21, 1982; new Part adopted at 6 Ill. Reg. 11865, effective September 22, 1982; amended at 7 Ill. Reg. 13229, effective September 28, 1983; emergency amendment at 7 Ill. Reg. 13948, effective October 6, 1983, for a maximum of 150 days; emergency expired March 3, 1984; amended at 8 Ill. Reg. 18968, effective September 26, 1984; amended at 9 Ill. Reg. 14242, effective September 5, 1985; peremptory amendment at 9 Ill. Reg. 15062, effective September 25, 1985; emergency amendment at 9 Ill. Reg. 15928, effective October 8, 1985, for a maximum of 150 days; emergency expired March 5, 1986; amended at 10 Ill. Reg. 16588, effective September 22, 1986; emergency amendment at 10 Ill. Reg. 17773, effective September 26, 1986, for a maximum of 150 days; emergency expired February 23, 1987; amended at 11 Ill. Reg. 10560, effective May 21, 1987; emergency amendment at 11 Ill. Reg. 15242, effective August 28, 1987, for a maximum of 150 days; emergency expired January 25, 1988; amended at 12 Ill. Reg. 12200, effective July 15, 1988; emergency amendment at 12 Ill. Reg. 16233, effective September 23, 1988, for a maximum of 150 days; emergency

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

expired February 20, 1989; emergency amendment at 12 Ill. Reg. 22244, effective December 7, 1988, for a maximum of 150 days; emergency expired May 6, 1989; amended at 13 Ill. Reg. 10525, effective June 20, 1989; amended at 13 Ill. Reg. 14925, effective September 7, 1989; emergency amendment at 13 Ill. Reg. 16579, effective October 4, 1989, for a maximum of 150 days; emergency expired March 3, 1989; amended at 13 Ill. Reg. 17354, effective October 27, 1989; amended at 14 Ill. Reg. 638, effective January 2, 1990; amended at 14 Ill. Reg. 13529, effective August 13, 1990; emergency amendment at 14 Ill. Reg. 17029, effective September 26, 1990, for a maximum of 150 days; emergency expired February 23, 1991; amended at 15 Ill. Reg. 1487, effective January 22, 1991; amended at 15 Ill. Reg. 13293, effective September 3, 1991; emergency amendment at 15 Ill. Reg. 16745, effective November 5, 1991, for a maximum of 150 days; emergency expired April 3, 1992; amended at 16 Ill. Reg. 570, effective December 31, 1991; amended at 16 Ill. Reg. 12491, effective July 28, 1992; emergency amendment at 16 Ill. Reg. 16672, effective October 15, 1992, for a maximum of 150 days; emergency expired March 9, 1993; emergency amendment at 16 Ill. Reg. 18851, effective November 17, 1992, for a maximum of 150 days; emergency expired April 11, 1993; emergency amendment at 17 Ill. Reg. 1658, effective January 20, 1993, for a maximum of 150 days; emergency expired June 14, 1993; amended at 17 Ill. Reg. 16443, effective September 27, 1993; emergency amendment at 17 Ill. Reg. 18867, effective October 14, 1993, for a maximum of 150 days; emergency expired March 13, 1994; amended at 18 Ill. Reg. 10023, effective June 21, 1994; emergency amendment at 18 Ill. Reg. 15161, effective September 27, 1994, for a maximum of 150 days; emergency expired February 23, 1995; amended at 19 Ill. Reg. 13209, effective September 11, 1995; amended at 20 Ill. Reg. 754, effective December 29, 1995; recodified by changing agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 20 Ill. Reg. 12417, effective August 30, 1996; amended at 21 Ill. Reg. 578, effective December 30, 1996; amended at 21 Ill. Reg. 11713, effective August 12, 1997; amended at 22 Ill. Reg. 2182, effective January 2, 1998; amended at 22 Ill. Reg. 15961, effective August 24, 1998; amended at 22 Ill. Reg. 21881, effective DEC 3 1998.

Section 590.20 Permit Controlled Department Sites Only - Duck, Goose and Coot Hunting

a) Sites covered in this Section, which allow hunting by permit only, are:

Banner Marsh Fish and Wildlife Area (for the 1998-1999 season, permits will be issued through random daily drawings at the site at 5:00 a.m. and the permit requirements in subsections (b)(1) and (b)(5) do not apply)

Snake Den Hollow State Fish and Wildlife Area

Union County Conservation Area

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

b) Permit Requirements
   1) Permit reservations shall be accepted starting in September. Initial acceptance dates and methods for making reservations will be publicly announced. Only applications for reservations submitted by Illinois residents will be processed during the first two weeks of the application period. Applicants making reservations will be sent confirmation.
   2) Permits shall be issued until the daily quota is filled. The daily quota is determined by the formula: one hunter per 10 to 40 huntable acres. Huntable acres are determined by, but not limited to, the biological studies on the number of the species available; the condition, topography, and configuration of the land at the site; the condition of the roads at the site; the number of employees available to work at the site; and the number of blinds which can be established on a site as set forth in Section 3.8 of the Wildlife Code [520 ILCS 5/3.8].
   3) The permit shall be for the use of the entire blind. It shall be the responsibility of the permit holder to bring one partner (two persons per blind) for Snake Den Hollow State Fish and Wildlife Area and Union County, or three partners (four persons per blind) for Banner Marsh. Unfilled blinds shall be filled by a drawing at the sites.
   4) Permits are not transferrable.
   5) Permits will be issued from the Springfield Permit Office for permit-controlled sites. For other information write to:

      Illinois Department of Natural Resources
      Permit Office - Waterfowl
      P.O. Box 19457
      Springfield, IL 62794-9457

c) General regulations
   1) All use other than permit hunting is prohibited at Snake Den Hollow from October 1 through close of Fulton-Knox County goose season.
   2) Hours, Permits and Stamp Charges
      A) Hunting hours are from legal opening time until 1:00 p.m.
      B) At Snake Den Hollow from opening day through December 14, hunters with permit reservations are required to check in at the check station between 4:30 a.m. and 5:00 a.m. Permits are void after 5:00 a.m. From December 15 through the close of goose seasons, hunters with permit reservations are required to check in at the check station between 5:00 a.m. and 5:30 a.m. Permits are void after 5:30 a.m. At Union County Conservation Area hunters with permit reservations are required to check in at the check station between 4:30 a.m. and 5:00 a.m. Permits are void after 5:00 a.m. A drawing shall be held to allocate blind sites at all sites.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

      C) A $15 Daily Usage Stamp must be purchased at Snake Den Hollow State Fish and Wildlife Area and Union County Conservation Area.
   3) Hunting shall be done from assigned blinds only and hunters shall not move from blind to blind or leave the blind and return.
   4) Guns must be unloaded and encased at all times when not hunting.
   5) The legal hunting season for Union County Conservation Area is the dates of the Quota Zone goose hunting season except that the areas shall be closed on Mondays and December 24, 25, 26 and the first weekday after December 26 other than a Monday. (This site shall be open only for the Illinois Youth Goose Hunt on the first weekday after December 26 other than a Monday, pursuant to Section 590.25,)
   6) The legal hunting season at Snake Den Hollow is the dates of the Fulton-Knox County goose hunting zone except that the area shall be closed on Tuesdays, Wednesdays, and December 24, 25 and 26.
   7) The legal hunting season at Banner Marsh is the dates of the central zone duck hunting season.
   8) Hunters may not possess more than 10 shot 5 shells ~~for each Canada Goose allowed in the daily bag~~ at Union County Conservation Area and Snake Den Hollow.
   9) Hunters without their guns may leave the blind to retrieve crippled waterfowl at Union County Conservation Area.
   10) Hunters must be at least 16 years of age (except for the Illinois Youth Goose Hunt) to draw for a pit or blind. Each person under 16 years of age must be accompanied by a supervising adult.

(Source: Amended at 22 Ill. Reg. 21881, effective DEC 3 1998)

Section 590.60 Various Other Department Sites - Duck, Goose and Coot Hunting

The sites listed in this Section conform to Statewide Regulations (Section 590.10) and the following regulations, except as noted.

a) Regulations
   1) Hunting hours are from legal opening to 1:00 p.m., except hunting shall be permitted until sunset on those sites indicated with by (1) following the location in subsection (b).
   2) No permanent blinds allowed; all blinds must be of a portable nature and constructed with natural vegetation at the blind site and no pits can be dug. All materials must be removed or dismantled at the end on the day's hunt.
   3) Portable boat blinds must have been completed, including final brushing, before entering the water and must be removed at the end of the day's hunt.
   4) Waterfowl hunters must maintain a distance of 200 yards between hunting parties.
   5) No hunting is permitted within 200 yards of developed recreation

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

areas, public use facilities, and construction or industrial sites.

6) No check station is operated nor is any check in/check out required, except as indicated in the remainder of this Section.

7) It shall be unlawful to trespass upon areas designated as waterfowl rest areas or refuges from two weeks prior to the start of regular duck season through the close of regular duck and Canada goose season except as indicated in the remainder of this Section.

8) It shall be unlawful to trespass upon the designated waterfowl hunting area during the 7 days prior to the regular duck season as posted at the site.

b) Site specific regulations

1) Cache River State Natural Area (1)

2) Campbell Pond Wildlife Management Area (1)

3) Carlyle Lake Project Lands and Waters

A) No one may enter the subimpoundment area to hunt waterfowl before 4:30 a.m. each day of the waterfowl hunting season, or remain in the area after 3:00 p.m. each day of the waterfowl hunting season, except during the last 3 days of the Canada goose season and during any goose seasons that occur before or after Canada goose season, hunters must be out of the area by one hour after sunset and not return until 4:30 a.m. The subimpoundment area is defined as that area bordered by the Kaskaskia River on the east and south and extending north and west to the Carlyle Lake project boundary, and includes impoundment areas 1, 2, 3, and 4 and within the impoundments on the East Side Management Area located east of the Kaskaskia River.

B) The waters of Carlyle Lake are defined as the lake and that portion of the Kaskaskia River, northfork, eastfork, Peppenhorst Branch and Allen Branch north of the buoys only, and Hurricane Creek that are within the boundaries of the Carlyle Lake property.

C) Walk-in hunting shall be permitted in subimpoundment areas. Boats with no motors are allowed in the subimpoundments. Department of Natural Resources personnel will designate boat launching locations.

D) When the water level in the subimpoundment area is too high (due to flooding) to allow walk-in hunting, Department of Natural Resources personnel shall post that the area is open to boats with motors of 10 HP or less and will designate boat launching locations.

E) In the subimpoundment areas, compartment 4 will be a waterfowl rest area during the entire waterfowl season. No hunting within 50 yards of rest area signs on E and F levees which contain subimpoundment 4 is permitted. No trespassing will be allowed, except for hunters boating

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

through the area on the Kaskaskia River along F levee and boaters hunting on Hurricane Creek between C and D levees. At the close of duck hunting season, known eagle protection areas will be posted by the Site Superintendent and will be closed to goose hunting.

F) Each hunting party is required to hunt over a minimum of 12 decoys. Decoys shall not be left out unattended or after 3:00 p.m. each day of the waterfowl season, except during the last 3 days of the Canada goose season and during any goose seasons that occur after Canada goose season, decoys shall not be left out unattended or later than one hour after sunset.

G) All waterfowl hunters must register prior to hunting each day of the waterfowl hunting season at the nearest accessible registration box. All hunters must sign out and record their harvest daily before they exit the area.

H) The Army Corps of Engineers may build blinds on Corps managed lands and waters for management purposes only.

I) During the last 3 days of Canada goose season and during any goose seasons that occur after Canada goose season, hunting hours shall close at sunset daily.

4) Chauncey Marsh (1)
Permit required, may be obtained at Red Hills State Park Headquarters and must be returned by February 15.

5) Clinton Lake (1)

A) Hunters must obtain free permit from site office prior to hunting; hunters must return the permit and report harvest by February 15 of following year or hunting privileges for following season shall be forfeited.

B) Hunting is allowed only from anchored portable boat blinds except no waterfowl hunting is permitted in the area extending from a line between the west side boat ramp and the southern-most point of the central peninsula to the Davenport Bridge.

C) No more than 4 persons shall occupy or use a portable boat blind.

D) Each hunting party is required to hunt over a minimum of 12 decoys.

E) No hunting is permitted within 300 yards of power lines.

6) Cypress Pond State Natural Area (hunters must sign in prior to hunting and sign out reporting harvest at the end of each day) (1)

7) Dog Island Wildlife Management Area (1)
Hunters must sign in prior to hunting and sign out reporting harvest at end of each day.

8) Donnelley State Wildlife Area

A) Hunting is prohibited on Tuesdays and Wednesdays except open on opening day and on the first Sunday immediately preceding

the first firearm deer season as set forth in 17 Ill. Adm. Code 650.10 except as indicated in Section 590.25.

B) Hunting hours start at sunrise.

C) Goose hunting is prohibited after the close of the duck season.

D) All hunting shall be from designated blinds only. Refilling or changing blinds is not permitted.

E) All hunters must report to the check station to fill out an information card and turn in hunting licenses or Firearm Owner's Identification Cards before proceeding to blinds.

F) $10 daily usage stamp must be purchased to hunt this area.

G) No outboard motors are allowed by public - only by authorized DNR personnel.

H) No more than 3 persons shall occupy a blind at any one time.

I) All parties are required to report to check station within 1 hour after termination of hunt or no later than 2:00 p.m.

J) All parties must hunt over a minimum of 12 decoys and a maximum of 48 decoys can be used, which must be removed upon the termination of the hunt.

K) The first weekend and the third Saturday of the regular duck season shall be designated as youth hunt days. This will consist of youth or youths 15 and under plus one adult per blind. There shall be no charge for the youth on these days. Those blinds not allocated to youths shall be available to adults on those days.

L) One blind shall be made available by priority claim to "disabled" persons (as defined in Section 2.33 of the Wildlife Code).

9) East Conant Field
Waterfowl hunters must obtain permits prior to hunting. Permits must be returned by February 15.

10) Fox Ridge State Park (1)
Hunting restricted to Embarras River and its flood waters.

11) Fort de Chartres Historic Site (1)

A) Hunting is allowed from anchored, portable boat blinds only on a first come-first served basis.

B) Each hunting party is required to hunt over a minimum of 12 decoys which must be removed at the end of each hunting day.

C) No hunting is allowed during firearm deer season.

12) Freeman Mine
Hunting regulations will be publicly announced.

13) Heidecke State Fish and Wildlife Area, Braidwood Fish and Wildlife Area and Powerton Lake

A) Blind sites shall be allocated on a daily draw basis conducted at the check stations 60 minutes before hunting time. Hunters shall register as parties for the drawing; each party drawn shall be allowed to select blind site in order drawn; only those hunters registered in party shall be

allowed to hunt with their party; no more than three hunters per party; persons under the age of 16 shall not be allowed to hunt unless accompanied by an adult.

B) Blind sites not selected during the drawing shall be allocated on a first come-first served basis. Vacant blind sites shall not be allocated after the drawing until one hour after legal hunting time. No blind sites shall be allocated after 10:00 a.m. Hunters wishing to move to another blind site must report this move to the check station attendant in person before such a move.

C) Access to water blind sites must be by boat only and from designated boat launch sites.

D) All hunting must be from portable boat blinds, within 10 yards of the assigned numbered stake or buoy. No more than 3 persons shall use one blind.

E) Upon vacating blind sites, all hunters must report to the check station within 1 hour. At this time, waterfowl bagged must be checked in and displayed to the station operator and hunting licenses returned.

F) Each hunting party is required to hunt over a minimum of 12 decoys. Decoys must be picked up immediately after the hunt is over.

G) Heidecke Lake and Braidwood Lake shall be closed to all fishing and boat traffic except for legal waterfowl hunters from 10 days prior to regular duck season until the close of the regular duck and Canada goose season. Powerton Lake shall be closed to boat traffic from 7 days prior to opening of regular duck season until February 15, except for legal waterfowl hunters, and closed to all unauthorized entry during the regular duck season.

H) No hunting on Monday and Tuesday at Heidecke and Braidwood Lakes. No hunting at Powerton Lake on Monday through Thursday except hunting permitted on State holidays.

I) It is unlawful to hunt waterfowl on the water area in any watercraft less than 16 feet long and 60 inches in beam and without a gas-powered motor.

J) No guns may be carried from water blinds to retrieve waterfowl that fall on land.

K) Hunting is closed on Christmas Day and New Year's Day.

L) All water areas not posted with blind site numbers shall be refuge and are closed to all boat traffic except by authorized personnel.

M) It is unlawful to shoot across any dike.

N) Waterfowl hunting shall close with the conclusion of the duck season at Powerton Lake. At Heidecke and Braidwood Lakes waterfowl hunting closes at the end of duck or goose season, whichever is later. No goose hunting is allowed prior to duck season.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

14) Horseshoe Lake (Alexander County) Daily Drawing Waterfowl Hunting Area Only
   A) Waterfowl hunting shall be permitted only during goose season, except that no hunting is allowed on Mondays, Tuesdays or December 24, 25, 26 and on the day of the Youth Goose Hunt (this site shall be open only for the Illinois Youth Goose Hunt on the first weekday after December 26 other than a Monday, pursuant to Section 590.25).
   B) Hunting shall be done from assigned blinds only.
   C) A daily drawing for assigned blind sites will be held at 5:00 a.m. at the check station each day hunting is allowed. For the drawing, hunters must register as a party; no more than two people per party are permitted.
   D) Hunters must deposit their license prior to going to their blinds.
   E) Hunters must park in assigned, designated areas only.
   F) Hunters must hunt over a minimum of 12 Canada goose decoys.
   G) Hunters must return to the check station and report their harvest by 2:00 p.m.
   H) Hunters may not possess more than 10 shot 5 shells ~~for--each Canada-goose-or-subspecies-allowed-in-the-daily-bag~~.
   I) Hunters cannot move from blind to blind, nor leave the assigned blind to shoot crippled geese; hunters may leave the assigned blind to retrieve crippled geese, but must leave their guns in the blind.
15) Horseshoe Lake (Alexander County) Public Hunting Area
   A) Closed to waterfowl hunting on Mondays and Tuesdays.
   B) When duck season is closed, goose hunters may not possess ~~no~~ more than 10 shot 5 shells ~~for--each--Canada--goose--or subspecies-allowed-in-daily-bag~~.
16) Horseshoe Lake Refuge (no hunting allowed, no boat motors except trolling motors will be allowed on Horseshoe Lake from October 15 to March 1)
17) Kaskaskia River Fish and Wildlife Area
   A) No waterfowl hunters may remain in the area after 3:00 p.m. For those lands lying south of Illinois Route 154 and north of Illinois Route 13, the legal hunting hours shall be from statewide opening hour until statewide closing hour.
   B) All waterfowl hunting parties must use at least 12 decoys. Hunting is allowed on a first come-first served basis.
   C) It is unlawful to leave duck and goose decoys unattended. Decoys must be picked up at the end of each day's hunt.
   D) All waterfowl hunters must register prior to hunting each day of the waterfowl season at the nearest check station, and must sign out and record their harvest daily before they exit the area.
   E) The following regulations apply to the Doza Creek Waterfowl Management Area:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

      i) No waterfowl hunters may enter the area before 3:00 a.m. each day of the waterfowl hunting season. No waterfowl hunters may remain in the area after 3:00 p.m.
      ii) Only waterfowl, coot, archery deer and fall archery turkey hunting (as provided by 17 Ill. Adm. Code 670 and 720) allowed in this area during the duck hunting season; goose hunting is closed during the second firearm deer season if the second firearm deer season occurs after duck season.
18) Kinkaid Lake Fish & Wildlife Area (1)
19) Lake Shelbyville (except for land/waters covered in subsection (b)(20) of this Section) (1)
20) Lake Shelbyville West Okaw and Kaskaskia Fish and Wildlife Area
   A) Waterfowl hunting shall be permitted as described below except in duly posted restricted and "No Hunting" areas.
   B) Waterfowl hunting in the Fish Hook, the North Dunn, the McGee, and the Jonathan Creek Waterfowl Areas shall be allotted by a daily drawing from opening day through the first Saturday and Sunday of the regular waterfowl season. Parties must register for drawings between 3:00 a.m. and 4:00 a.m. Central Standard Time at the check station on those days. Each party drawn shall be allowed to choose one of the staked sites in the waterfowl area. Parties must select sites in the order they are drawn. Maximum party size is 4 persons. In addition, the following regulations shall apply:
      i) All parties must hunt within 10 yards of their assigned stake.
      ii) All parties must be in place by one-half hour before hunting time.
      iii) All parties are required to report their harvest by 2:00 p.m. following each hunt.
   C) Hunting in the Jonathan Creek, North Dunn and McGee Waterfowl Areas shall be restricted to designated, staked sites on a first come-first served basis except as noted in subsections (b)(20)(A) and (B) above. A hunting party must hunt within 10 yards of the stake.
   D) Each hunting party in the Fish Hook, Dunn, Jonathan Creek and McGee Waterfowl Areas are required to hunt over a minimum of 12 decoys.
   E) Motors of over 10 horsepower shall not be operated in the Fish Hook, Jonathan Creek, Dunn, and McGee Waterfowl Areas.
   F) Waterfowl hunting only is permitted in the Fish Hook, Dunn, Jonathan Creek and McGee Waterfowl Areas during the regular waterfowl season, except that pheasant, rabbit and quail hunting is permitted after 1:00 p.m. daily beginning the day after the close of the Central Zone Duck Season.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

G) During the regular waterfowl season, no bank or boat fishing shall be permitted on the Kaskaskia River from the Strickland Boat Access north to the Illinois Central Railroad bridge from one-half hour before sunrise until 1:00 p.m.

H) A free permit is required, which is obtained from the site office. Permits must be in possession while hunting waterfowl. The permit must be returned and harvest reported by February 15 or the hunter will forfeit his hunting privileges at this site for the following year.

21) Meredosia Lake - Cass County Portion Only (meandered waters only)

A) All boat traffic is prohibited from operating on meandered waters (except non-motorized boats may be used to assist in the retrieval of waterfowl shot from private land) from the period from one week before waterfowl season opens until the season closes.

B) Hunting and/or any other activity is prohibited during the period from one week before waterfowl season opens until the season closes.

22) Mermet

A) Waterfowl hunting shall be permitted only during the duck hunting season.

B) Hunting is allowed in both the walk-in and blind areas only. Those individuals wishing to hunt in the walk-in area are required to deposit their hunting licenses and register at the check station prior to entering the area. Individuals who wish to use the blind area are required to deposit their hunting licenses and participate in a daily drawing during which blinds shall be assigned. Hunting parties shall not change blinds without prior approval from the check station operator. Those persons exempted by law from having hunting licenses must deposit their Firearm Owner's Identification Cards.

C) The daily drawing shall be held one hour prior to legal opening time.

D) All members of the hunting party shall register as a group (not to exceed 4 persons per group) for the purpose of the drawing.

E) Those hunters in the blind area shall park in designated areas. These parking areas shall be numbered to correspond with particular blind sites located along the levee road.

F) In the blind area a minimum of 12 decoys per blind is required while hunting waterfowl.

G) Boats without motors may be used in the walk-in areas.

H) No hunting Christmas Day.

23) Newton Lake Fish and Wildlife Area

A) Blind sites shall be allocated by a daily drawing to be conducted 90 minutes prior to hunting time. Blind sites not

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

selected during the drawing (or in the event that personnel are not available to conduct drawing) shall be allocated on a first come-first served basis.

B) All hunting must be from registered blind sites only and hunters must occupy their blinds within one hour after registering at the check station.

C) Upon vacating their blinds, hunters must place their completed harvest cards in the collection box located at the boat ramp.

D) There will be duly posted waterfowl refuges. These areas shall be closed to all boat traffic and boat fishing during the waterfowl season.

E) No more than 4 persons shall occupy a blind at one time.

F) The west arm of the lake shall be closed to all waterfowl hunting.

G) Blind sites shall be determined by the Department of Natural Resources and marked with numbered stakes. When it is deemed necessary, the Department shall remove, move or close blind sites in order to carry out the operations of the overall management program.

H) Hunters wishing to move to another blind location may do so, providing they include the blind change on the harvest card and report their kill for each blind.

I) Access to blind sites shall be by boat only and from the west side boat ramps.

J) All hunting must be from one portable blind or one anchored portable boat blind located within a numbered cove and between the assigned numbered stakes.

K) Crippled waterfowl that fall on land, other than areas designated as refuge, shall be retrieved by foot. However, no gun may be carried while attempting to recover such birds.

L) No pits or blinds shall be built on State lease Ameren/CIPS land.

M) Blind site: A position between two like numbered stakes where a blind may be located.

N) Fishing shall be prohibited in the east arm of the lake during the waterfowl season.

O) Each party must hunt over a minimum of 12 decoys, and all decoys must be removed at the end of each day's hunt.

P) When it is deemed necessary for public safety reasons, such as flooding, high winds, or heavy fog, the Department will close the lake area to all fishing and all boating activity except for non-water hunting programs.

Q) This site is closed to all users except firearm deer hunters during the firearms deer seasons.

24) Oakford Conservation Area (1)

25) Ray Norbut State Fish and Wildlife Area (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Statewide season regulations apply except that the season closes December 15 in Eagle Roost Area, or the legal statewide closing, whichever is earlier.

26) Rend Lake Project Lands and Waters

A) All waterfowl hunters and all boats must be out of the Casey Fork and Big Muddy subimpoundments by 2:00 p.m. each day of the waterfowl season and not return until 4:30 a.m., except during the last 3 days of the Canada goose season, and during any goose season occurring after the Canada goose season, hunters must be out of the areas by one hour after sunset and not return until 4:30 a.m.

B) No hunting permitted from the subimpoundment dams.

C) No waterfowl hunting permitted within 200 yards of the refuge boundary, or within 100 yards of any private property boundary.

D) All boat traffic is prohibited from entering the subimpoundments from 1 week before waterfowl season until opening day of waterfowl season.

E) All waterfowl hunters must sign in prior to hunting and sign out and report their harvest at the end of each day's hunt.

F) Permanent blinds at the Whistling Wings Access Area shall be regulated as follows:

i) During goose season, a separate drawing will be held for the 4 pits at Whistling Wings. This drawing will be held at the Cottonwood check station following the drawing for staked hunting sites. Hunters may not register for more than one drawing per day. Unsuccessful hunters in the drawing for Whistling Wings pits may select any unclaimed staked location after the drawings.

ii) Hunters who wish to hunt together must register as a hunting party and be present at the drawing.

iii) All hunters must have the registration card from the check station in their possession while hunting.

iv) Hunters must occupy the pit they have drawn by legal shooting time. If a pit is not occupied by legal shooting time, another party who has registered at the check station may occupy the unclaimed pit.

v) No more than 6 dozen decoys may be used per pit.

vi) No more than 4 hunters will be allowed in a pit or hunting party.

G) Each hunting party is required to hunt over a minimum of 12 decoys at each blind site, and all decoys must be picked up at the end of each day's hunt.

H) During the last 3 days of Canada goose season and during any goose seasons occurring after Canada goose season, hunting hours shall close at sunset daily.

I) The land portion of the Rend Lake Refuge is closed to

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

trespassing during waterfowl season. The location of the Rend Lake Refuge is described as follows:

i) Bounded on the south by a buoy line, approximating the Jefferson-Franklin County Line.

ii) Bounded on the east by a buoy line and/or signs approximating the channel of the Casey Fork Creek.

iii) Bounded on the west by a buoy line and/or signs approximating the channel of the Big Muddy River.

iv) Bounded on the north portion of the Big Muddy River by a buoy line and/or signs approximating a line which would extend west from Ina, Illinois.

v) Bounded on the north portion of the Casey Fork Creek by the Casey Fork Subimpoundment Dam.

vi) Bounded on Nason Point by refuge boundary signs at project limits.

J) After the close of regular duck season, goose hunters may not possess more than 10 shot shells ~~5 shotgun shells for each Canada Goose allowed in the daily bag~~.

K) Staked Hunting Areas - Those areas designated as a staked hunting area will be publicly announced and the following regulations will apply:

i) All hunting must occur within 10 yards of an assigned, numbered stake and only one hunting party may occupy a staked site at any given time.

ii) Stakes will be assigned via a daily drawing held at 4:00 a.m. during November, 4:30 a.m. in December and 5:00 a.m. in January. Check stations will be open from 1/2 hour before drawing time to 9:30 a.m. daily.

iii) Check station at the Bonnie Dam Access Area will be operated on a daily basis through the second weekend of the waterfowl season. Thereafter, Bonnie Dam check station will only be open on weekends and holidays as posted at the check station. Cottonwood Access Area will be operated on a daily basis throughout the waterfowl season for both Bonnie Dam and Cottonwood Hunting Areas. Hunters who wish to hunt together at a staked location must register as a hunting party and be present for the drawing. Only those persons in that party may hunt at the assigned stake. No more than 5 persons shall be in a hunting party.

iv) Hunters arriving at the check station after the draw may enter the staked area only if it is one hour prior to shooting time or between 9:00 a.m. and 9:30 a.m. All hunters must register at the check station.

v) When a staked hunting location is vacated by a hunting party any other registered hunting party may claim the vacant stake on a first come-first served basis. Hunters must occupy the stake they have drawn by legal

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

shooting time.

vi) When hunting parties have killed their legal daily bag limit of ducks (not including coots and mergansers) and/or Canada geese in respect to the legal hunting season dates they must vacate the hunting site.

vii) Hunters must sign in and out and report their harvest on the cards at the access area where they launch.

27) Saline County Conservation Area (1)

A) Waterfowl hunting is allowed north of the township road only.

B) Walk-in hunting only.

C) Hunters must sign in prior to hunting and sign out reporting harvest at the end of each day.

28) Sand Ridge State Forest (Mud Turtle State Natural Area) (1)

A) Hunting is permitted on Tuesdays and Saturdays during the duck season. Permits are issued on a first come-first served basis.

B) Two hunters are allowed per blind. At least one hunter must have a P-2 handicapped certification.

C) Hunters must report harvest to site office.

29) Sanganois State Fish and Wildlife Area

A) Hunters using the walk-in area shall use the check station at the headquarters area located 8 miles northwest of Chandlerville just off Route 78 or the check station on the west side of the Illinois River one mile north of Browning near Route 100.

B) Walk-in waterfowl hunting shall be permitted only in the area posted for this purpose.

C) All hunters using a walk-in area must report to the check station to fill out information cards and to turn in hunting licenses or Firearm Owner's Identification Cards before proceeding to area.

D) Upon the completion of hunting, hunters must report to the check station within one hour.

E) Fishing is prohibited in the impoundment areas during the duck season, except that walk-in only access for fishing from the bank is permitted after 1:00 p.m.

F) No person shall trespass on the Barkhausen Refuge during the period from October 1 through end of goose season.

G) No person shall trespass on the Marion-Pickerel Waterfowl Refuge during the period from October 1 through the last day of the waterfowl season, unless prior permission for a specific reason (such as access to private land or to retrieve dead or wounded game) is granted by the site superintendent.

H) When the central zone goose season extends beyond the duck season, goose hunting shall be permitted with statewide hunting hours in effect. Hunters need not occupy a blind. All hunting must be conducted within non-refuge areas.

I) No hunting permitted from the walk-in area subimpoundment levee.

J) Hunters may use boats without motors in the walk-in area; the construction and/or use of permanent blinds in the walk-in area is prohibited.

30) Sangchris Lake State Park

A) During the last 3 days of Canada goose season, hunting hours will close at statewide closing.

B) Blind sites shall be allocated by a daily drawing to be conducted 90 minutes prior to hunting time. Blind sites not selected during the drawing (or in the event that personnel are not available to conduct the drawing) shall be allocated on a first come-first served basis. (During that portion of the goose season which follows the duck season, the west side goose pit area, the west arm blind sites and east arm blind sites south of power lines shall be available for goose hunting and shall be allocated on a daily drawing basis to be held at 5:30 a.m. daily.)

C) During that portion of the goose season which follows the regular Canada goose season, the west-side goose pit area blinds shall be available for goose hunting on a daily basis. These west-side goose pit area blinds shall be allocated via a mail-in drawing from the office. Blinds not occupied one hour before shooting time shall be available on a first come-first served basis. All hunters must sign in at designated parking spots. Hunters may not possess more than 5 shells for each snow goose allowed in the daily bag limit.

D) All hunting must be from registered blind sites only and hunters must occupy their blinds within one hour after registering at the check station.

E) Upon vacating their blinds, hunters must place their completed harvest cards in the collection boxes located at either the east or west boatdock.

F) There will be a duly posted waterfowl refuge. These areas shall be closed to all boat traffic (except as allowed in subsection (b)(30)(J)) and boat fishing during the waterfowl season. Bank fishing along the dam shall be permitted.

G) No more than 4 persons shall occupy a blind at one time.

H) The center arm of the lake shall be closed to all waterfowl hunting.

I) Blind sites shall be determined by the Department of Natural Resources and marked with a numbered stake. When it is deemed necessary, the Department of Natural Resources shall remove, move or close blind sites in order to carry out the operations of the overall management program.

J) Hunters wishing to move to another blind location may do so

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

after 10 a.m. providing they include the blind change on the harvest card and report their kill for each blind.

K) Access to water blind sites shall be by boat only and from designated boat launch sites. Blinds on the peninsula subimpoundment shall be accessed on foot once the hunter has reached the peninsula by boat. Corridors located along the edges of the existing refuge will be established to provide access to all available blind sites as designated by site superintendent when conditions warrant.

L) All hunting must be from 1 portable blind or 1 anchored portable boat blind located within a numbered cove and between the assigned numbered stakes or from 1 Department designated blind or pit.

M) Crippled waterfowl that fall on land, other than areas designated as refuge, shall be retrieved by foot. However, no gun may be carried while attempting to recover such birds.

N) No unauthorized pits or blinds shall be built on State managed land.

O) Blind sites: A position between two like numbered stakes within a cove or other Department designated site where a blind may be located.

P) Fishing shall be prohibited in the east and west arms of the lake during the period from 10 days prior to the duck season through the end of the duck season. Fishing shall be prohibited in the west arm of the lake and the east arm of the lake south of the power lines during that portion of the Canada goose season that follows the duck season.

Q) Each party must hunt over a minimum of 12 decoys, and all decoys must be removed at the end of each day's hunt (except at peninsula subimpoundments where only Department decoys may be used).

R) When it is deemed necessary for public safety reasons, such as flooding, high winds, or heavy fog, the Department of Natural Resources will close the lake area to all fishing and all boating activity except for non-water hunting programs.

S) During flood conditions, waterfowl hunters may hunt the tailwaters of Sangchris Lake dam including Clear Creek and the South Fork of the Sangamon River. Decoys must be removed at the end of each day's hunt.

T) Peninsula subimpoundment blinds will be available on opening day of duck season and every Tuesday and Saturday through the duck season.

U) West-side goose pit area blinds will be available every day each week except Tuesday and Wednesday and December 24 and 25, through the regular Canada goose season.

V) Hunters in the west-side goose pit area may not possess more

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

than 10 shot shells ~~5 shells for each Canada goose allowed in the daily bag limit~~.

31) Sato Field
Waterfowl hunters must obtain permit prior to hunting. Permit must be returned by February 15.

32) Shawnee National Forest, Upper and Lower Bluff Lakes
Goose hunting is prohibited.

33) Shawnee National Forest, LaRue Scatters
All hunting must be by walking in or in boats without motors.

34) Shawnee National Forest, Oakwood Bottoms (Green Tree Reservoir west of the Big Muddy levee)
A) All hunting must be by walking into the area.
B) Each hunting party must hunt over a minimum of 12 decoys in Compartments 19, 20 and 21.
C) No person shall tamper with or attempt to manipulate any of the gates, pumps or structures in the subimpoundment area.

35) Stephen A. Forbes State Park
A) On the main lake hunting is allowed from a boat blind only in the designated areas.
B) Only walk-in hunting is allowed in the subimpoundment.
C) Hunting shall be allowed on a first come-first served basis. All hunters must use 12 decoys, minimum.

36) Ten Mile Creek Fish and Wildlife Area (1)
A) Waterfowl hunters must obtain permits prior to hunting Permits must be returned by February 15.
B) Each hunting party is required to hunt over a minimum of 12 decoys at each blind site, and all decoys must be picked up at the end of each day's hunt.
C) Areas designated as Rest Areas are closed to all access during the Canada Goose Season only. Rest Area designation has been given to that part of the Belle River unit that lies south of Auxier Creek and is posted as Rest Area, and the 250 acre tract at the Western edge of the Eads Mine unit.
D) After the close of the duck season, goose hunters in that portion of Ten Mile Creek that lies in the Rend Lake Quota Zone may not possess more than 10 shot shells ~~5 shotgun shells for each Canada Goose allowed in the daily bag~~.

37) Turkey Bluffs State Fish and Wildlife Area (All hunters must sign in and out and report kill) (1)

38) Union County (Firing Line Waterfowl Management Area)
A) It shall be unlawful to take a gun beyond the posted boundary while retrieving crippled geese.
B) During goose season waterfowl hunters may not possess more than 10 shot shells ~~5 shells for each Canada Goose allowed in the daily bag~~.
C) During goose season hunting from staked sites only.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 22 Ill. Reg. 21881, effective DEC 3 1998)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Illinois List of Endangered and Threatened Flora

2) Code Citation: 17 Ill. Adm. Code 1050

3)

Section Numbers:	Adopted Action:
1050.10	Amendments
1050.25	Amendments
1050.30	Amendments
1050.40	Amendments

4) Statutory Authority: Implementing and authorized by Section 7 of the Illinois Endangered Species Protection Act [520 ILCS 10/7].

5) Effective Date of Amendments: December 3, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: August 21, 1998, 22 Ill. Reg. 15143

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version:

Section 1050.10 - "list" was changed to "lists"; "Section" changed to "Sections"; "Section" was deleted; "has" changed to "have"; and "List" changed to "Lists"

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: The Illinois Endangered Species Protection Act requires that the Illinois Endangered Species Protection Board review and revise the Illinois List of Endangered and Threatened Flora as warranted, but in no case less frequently than every 5 years [520 ILCS 10/6]. The Board recently conducted a thorough review of the list. As required by law [520 ILCS 10/7], the Board conducted a public hearing on April 27, 1998, regarding changes it proposed to make to the Illinois

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

List. Subsequently, at the 100th meeting of the Illinois Endangered Species Protection Board on May 15, 1998, the Board adopted such changes to the Illinois List as were supported by scientific evidence.

16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price
Department of Natural Resources
524 S. Second Street, Room 430
Springfield IL 62701-1787
217/782-1809

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER c: ENDANGERED SPECIES

PART 1050
ILLINOIS LIST OF ENDANGERED AND THREATENED FLORA

Section
1050.10 Official List
1050.20 Definitions
1050.25 Criteria Used For Listing
1050.30 Endangered Flora of Illinois
1050.40 Threatened Flora of Illinois

AUTHORITY: Implementing and authorized by Section 7 of the Illinois Endangered Species Protection Act [520 ILCS 10/7].

SOURCE: Adopted at 4 Ill. Reg. 22, p. 209, effective May 20, 1980 unless otherwise noted; amended at 5 Ill. Reg. 10293, effective September 30, 1981; codified at 6 Ill. Reg. 2593; amended at 8 Ill. Reg. 13713, effective July 25, 1984; amended at 13 Ill. Reg. 3755, effective March 13, 1989; amended at 14 Ill. Reg. 6123, effective April 17, 1990; amended at 17 Ill. Reg. 10781, effective July 1, 1993; amended at 18 Ill. Reg. 1142, effective January 18, 1994; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 22 Ill. Reg. 21902 effective DEC 3 1998.

Section 1050.10 Official List

The lists appearing in Sections 1050.30 and 1050.40 have been adopted by the Illinois Endangered Species Protection Board as the Official Lists of Endangered and Threatened Flora of Illinois.

(Source: Amended at 22 Ill. Reg. 21902, effective DEC 3 1998)

Section 1050.25 Criteria Used For Listing

a) A species shall be included on the Official List when one or more of the following criteria exists:
   1) Species included in the Federal list of Endangered or Threatened species.
   2) Species proposed for Federal Endangered or Threatened status which occur in Illinois.
   3) Species which formerly were widespread in Illinois but have been nearly extirpated from the State due to habitat destruction, collecting, or other pressures resulting from the development of Illinois.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

4) Species which exhibit very restricted geographic ranges of which Illinois is a part.
5) Species which exhibit restricted habitats or low populations in Illinois.
6) Species which are significant disjuncts in Illinois, i.e., the Illinois population is far removed from the rest of the species' range.

b) A species will be removed from the Official List if it no longer fulfills one or more of the criteria in subsection (a), except for a species that no longer fulfills the criteria because it no longer grows in Illinois. The determination will be made pursuant to Section 7 of the Endangered Species Protection Act [520 ILCS 10/7].

(Source: Amended at 22 Ill. Reg. 21902, effective DEC 3 1998)

Section 1050.30 Endangered Flora of Illinois

SCIENTIFIC NAME	COMMON NAME
PHYSCIACEAE	
Phaeophyscia leana	Lea's Bog Lichen
EQUISETACEAE	
Equisetum scirpoides	Dwarf Scouring Rush
Equisetum sylvaticum	Horsetail
HYMENOPHYLLACEAE	
Trichomanes boschianum	Filmy fern
ISOETACEAE	
Isoetes butleri	Qwillwort
LYCOPODIACEAE	
Lycopodium clavatum	Running Pine
Lycopodium dendroideum	Ground Pine
Lycopodium inundatum	Bog Clubmoss
OPHIOGLOSSACEAE	
Botrychium matricariaefolium	Daisyleaf Grape Fern
Botrychium multifidum	Northern Grape Fern
Botrychium simplex	Dwarf Grape Fern
POLYPODIACEAE	
Asplenium bradleyi	Bradley's Spleenwort
Asplenium resiliens	Black Spleenwort
Cystopteris laurentiana	Fragile Fern
Dennstaedtia punctilobula	Hay-scented Fern
Dryopteris celsa	Log Fern
Gymnocarpium dryopteris	Oak Fern
Gymnocarpium robertianum	Scented Oak Fern
Thelypteris noveboracensis	New York Fern
Thelypteris phegopteris	Long Beech Fern
Woodsia ilvensis	Rusty Woodsia
CUPRESSACEAE	

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Juniperus horizontalis	Trailing Juniper
PINACEAE	
Pinus banksiana	Jack Pine
Pinus echinata	Shortleaf Pine
Pinus resinosa	Red Pine
ALISMATACEAE	
Echinodorus tenellus	Small Burhead
Sagittaria longirostra	Arrowhead
ARACEAE	
Calla palustris	Water Arum
CYPERACEAE	
Carex alata	Winged Sedge
Carex arkansana	Arkansas Sedge
Carex aurea	Golden Sedge
Carex brunnescens	Brownish Sedge
Carex canescens var. disjuncta	Sedge
Carex chordorrhiza	Cordroot Sedge
Carex crawfordii	Sedge
Carex cryptolepis	Sedge
Carex decomposita	Cypress-knee Sedge
Carex disperma	Shortleaf Sedge
Carex echinata	Sedge
Carex garberi	Sedge
Carex gigantea	Large Sedge
Carex heliophila	Sedge
Carex lucorum	Sedge
Carex nigromarginata	Black-edged Sedge
Carex oligosperma	Few-seeded Sedge
Carex physorhyncha	Bellows Beak Sedge
Carex reniformis	Sedge
Carex striatula	Lined Sedge
Carex trisperma	Three-seeded Sedge
Carex tuckermani	Tuckerman's Sedge
Cyperus lancastriensis	Galingale
Eleocharis olivacea	Spikerush
Eleocharis pauciflora	Few-flowered Spikerush
Eriophorum virginicum	Rusty Cotton Grass
Fimbristylis vahlii	Vahl's Fimbristylis
Rhynchospora glomerata	Clustered Beak Rush
Scirpus cespitosus	Tufted Bulrush
Scirpus hattorianus	Bulrush
Scirpus paludosus	Alkali Bulrush
Scirpus purshianus	Weak Bulrush
Scirpus smithii	Smith's Bulrush
Scirpus verecundus	Bulrush
IRIDACEAE	
Sisyrinchium atlanticum	Eastern Blue-eyed Grass
Sisyrinchium montanum	Mountain Blue-eyed Grass

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

JUNCACEAE	
Juncus alpinus	Richardson's Rush
Juncus vaseyi	Vasey's Rush
Luzula acuminata	Hairy Woodrush
LILIACEAE	
Camassia angusta	Wild Hyacinth
Medeola virginiana	Indian Cucumber Root
Polygonatum pubescens	Downy Solomon's Seal
Stenanthium gramineum	Grass-leaved Lily
Trillium cernuum	Nodding Trillium
Trillium erectum	Ill-scented Trillium
Trillium viride	Green Trillium
Zigadenus glaucus	White Camass
MARANTACEAE	
Thalia dealbata	Powdery Thalia
ORCHIDACEAE	
Calopogon tuberosus	Grass Pink Orchid
Cypripedium acaule	Moccasin Flower
Cypripedium calceolus var. parviflorum	Small Yellow Lady's Slipper
Cypripedium reginae	Showy Lady's Slipper
Hexalectris spicata	Crested Coralroot Orchid
Isotria medeoloides*	Small Whorled Pogonia
Isotria verticillata	Whorled Pogonia
Platanthera ciliaris	Orange Fringed Orchid
Platanthera clavellata	Wood Orchid
Platanthera flava var. flava	Tubercled Orchid
Platanthera flava var. herbiola	Tubercled Orchid
Platanthera leucophaea*	Eastern Prairie Fringed Orchid
Platanthera psycodes	Purple Fringed Orchid
Pogonia ophioglossoides	Snake-mouth
Spiranthes lucida	Yellow-lipped Ladies' Tresses
Spiranthes romanzoffiana	Hooded Ladies' Tresses
Spiranthes vernalis	Spring Ladies' Tresses
POACEAE	
Ammophila breviligulata	Marram Grass
Bechmannia syzigachne	American Slough Grass
Bouteloua gracilis	Blue Grama
Calamagrostis insperata	Bluejoint Grass
Elymus trachyculus	Bearded Wheat Grass
Glyceria arkansana	Manna Grass
Melica mutica	Two-Flowered Melic Grass
Milium effusum	Millet Grass
Panicum boreale	Northern Panic Grass
Panicum columbianum	Hemlock Panic Grass
Panicum joori	Panic Grass
Panicum ravenelii	Panic Grass
Panicum yadkinense	Panic Grass

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Paspalum dissectum	Bead Grass
Poa alsodes	Grove Bluegrass
Poa languida	Weak Bluegrass
Poa wolfii	Wolf's Bluegrass
Pucinellia pallida	Grass
Schizachne purpurascens	False Melic Grass
PONTERDERIACEAE	
Heteranthera reniformis	Mud Plantain
POTAMOGETONACEAE	
Potamogeton praelongus	White-stemmed Pondweed
Potamogeton pulcher	Spotted Pondweed
Potamogeton robbinsii	Fern Pondweed
Potamogeton strictifolius	Stiff Pondweed
SPARGANIACEAE	
Sparganium americanum	American Burreed
Sparganium chlorocarpum	Green-fruited Burreed
ACANTHACEAE	
Justicia ovata	Water Willow
ADOXACEAE	
Adoxa moschatellina	Moschatel
AMARANTHACEAE	
Iresine rhizomatosa	Bloodleaf
APIACEAE	
Conioselinum chinense	Hemlock Parsley
Cynosciadium digitatum	Cynosciadium
Eryngium prostratum	Eryngo
Hydrocotyle ranunculoides	Water-pennywort
Ptilimnium nuttallii	Mock Bishop's Weed
ASCLEPIADACEAE	
Asclepias lanuginosa	Wooly Milkweed
Asclepias meadii*	Mead's Milkweed
Asclepias ovalifolia	Oval Milkweed
Asclepias stenophylla	Narrow-leaved Green Milkweed
Matelea decipiens	Climbing Milkweed
ASTERACEAE	
Artemisia dracunculus	Dragon Wormwood
Bidens beckii	Water Marigold
Eupatorium hyssopifolium var. hyssopifolium	Hyssop-leaved Thoroughwort
Helianthus giganteus	Tall Sunflower
Hymenoxys herbacea*	Lakeside Daisy
Melanthera nivea	White Melanthera
Microseris cuspidata	Prairie Dandelion
Rudbeckia missouriensis	Missouri Orange Coneflower
Silphium trifoliatum	Rosinweed
BERBERIDACEAE	
Berberis canadensis	Allegheny Barberry
BETULACEAE	

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Alnus rugosa	Speckled Alder
Betula alleghaniensis	Yellow Birch
Betula populifolia	Gray Birch
BORAGINACEAE	
Hackelia americana	Stickseed
Heliotropium tenellum	Slender Heliotrope
BRASSICACEAE	
Cardamine pratensis var. palustris	Cuckoo Flower
Draba cuneifolia	Whitlow Grass
Lesquerella ludoviciana	Silvery Bladderpod
CACTACEAE	
Opuntia fragilis	Fragile Prickly Pear
CAPPARIDACEAE	
Polanisia jamesii	James' Clammyweed
CAPRIFOLIACEAE	
Lonicera dioica var. glaucescens	Red Honeysuckle
Lonicera flava	Yellow Honeysuckle
Sambucus pubens	Red-berried Elder
Symphoricarpos albus var. albus	Snowberry
CARYOPHYLLACEAE	
Silene ovata	Ovate Catchfly
Silene regia	Royal Catchfly
Stellaria pubera	Great Chickweed
CELASTRACEAE	
Euonymus americanus	American Strawberry Bush
CISTACEAE	
Hudsonia tomentosa	False Heather
CLUSIACEAE	
Hypericum adpressum	Shore St. John's Wort
Hypericum kalmianum	Kalm's St. John's Wort
Triadenum virginicum	Marsh St. John's Wort
CONVOLVUACEAE	
Stylisama pickeringii	Patterson's Bindweed
CORNACEAE	
Cornus canadensis	Bunchberry
CORYLACEAE	
Corylus cornuta	Beaked Hazelnut
DROSERACEAE	
Drosera rotundifolia	Round-leaved Sundew
ELAEAGNACEAE	
Shepherdia canadensis	Buffaloberry
ERICACEAE	
Arctostaphylos uva-ursi	Bearberry
Gaultheria procumbens	Wintergreen
Vaccinium corymbosum	Highbush Blueberry
Vaccinium macrocarpon	Large Cranberry
Vaccinium oxycoccos	Small Cranberry
EUPHORBIACEAE	

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Chamaesyce polygonifolia	Seaside Spurge
Euphorbia spathulata	Spurge
FABACEAE	
Amorpha nitens	Smooth False Indigo
Astragalus crassicarpus var. trichocalyx	Large Ground Plum
Astragalus tennesseensis	Tennessee Milk Vetch
Cladrastis lutea	Yellowwood
Dalea foliosa **	Leafy Prairie Clover
Galactia mohlenbrockii	Boykin's Dioclea
Lathyrus maritimus	Beach Pea
Lespedeza leptostachya*	Prairie Bush Clover
Trifolium reflexum	Buffalo Clover
FAGACEAE	
Quercus nuttallii	Nutall's Oak
GENTIANACEAE	
Bartonia paniculata	Screwstem
Sabatia campestris	Prairie Rose Gentian
GERANIACEAE	
Geranium bicknellii	Northern Cranesbill
HYDROPHYLLACEAE	
Hydrolea uniflora	One-flowered Hydrolea
Phacelia gilioides	Phacelia
JUGLANDACEAE	
Carya pallida	Pale Hickory
LAMIACEAE	
Pycnanthemum albescens	White Mountain Mint
Pycnanthemum torrei	Mountain Mint
Synandra hispidula	Hairy Synandra
LENTIBULARIACEAE	
Utricularia cornuta	Horned Bladderwort
Utricularia intermedia	Flat-leaved Bladderwort
Utricularia minor	Small Bladderwort
MALVACEAE	
Iliamna remota	Kankakee Mallow
Malvastrum hispidum	False Mallow
MYRICACEAE	
Comptonia peregrina	Sweetfern
NYCTAGINACEAE	
Mirabilis hirsuta	Hairy Umbrella-wort
ONAGRACEAE	
Circaea alpina	Small Enchanter's Nightshade
OROBANCHACEAE	
Orobanche fasciculata	Clustered Broomrape
OXALIDACEAE	
Oxalis illinoensis	Illinois Wood Sorrel
PAPAVERACEAE	
Corydalis aurea	Golden Corydalis

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Corydalis halei	Hale's Corydalis
Corydalis sempervirens	Pink Corydalis
PLANTAGINACEAE	
Plantago cordata	Heart-leaved Plantain
POLEMONIACEAE	
Phlox pilosa subsp. sangamonensis	Sangamon Phlox
POLYGALACEAE	
Polygala incarnata	Pink Milkwort
POLYGONACEAE	
Polygonum arifolium	Halbred-leaved Tearthumb
Polygonum careyi	Carey's Heartsease
PORTULACACEAE	
Talinum calycinum	Fameflower
PRIMULACEAE	
Lysimachia fraseri	Loosestrife
Lysimachia radicans	Creeping Loosestrife
Primula mistassinica	Bird's-eye Primrose
PYROLACEAE	
Chimaphila maculata	Spotted Wintergreen
Chimaphila umbellata	Pipsissewa
RANUNCULACEAE	
Cimicifuga americana	American Bugbane
Cimicifuga racemosa	False Bugbane
Clematis crispa	Blue Jasmine
Clematis occidentalis	Mountain Clematis
Clematis viorna	Leatherflower
Ranunculus cymbalaria	Seaside Crowfoot
RHAMNACEAE	
Berchemia scandens	Supple-jack
Ceanothus ovatus	Redroot
Rhamnus alnifolia	Alder Buckthorn
ROSACEAE	
Amelanchier interior	Shadbush
Amelachier sanguinea	Shadbush
Filipendula rubra	Queen-of-the-Prairie
Malus angustifolia	Narrow-leaved Crabapple
Potentilla millegrana	Cinquefoil
Rosa acicularis	Rose
Rubus odoratus	Purple-flowering Raspberry
Rubus setosus	Bristly Blackberry
Sanguisorba canadensis	American Burnet
Sorbus americana	American Mountain Ash
Waldsteinia fragarioides	Barren Strawberry
RUBIACEAE	
Galium lanceolatum	Wild Licorice
Galium virgatum	Dwarf Bedstraw
SALICACEAE	
Populus balsamifera	Balsam Poplar

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Salix serissima	Autumn Willow
Salix syrticola	Dune Willow
SAPOTACEAE	
Bumelia lanuginosa	Wooly Buckthorn
SARRACENIACEAE	
Sarracenia purpurea	Pitcher Plant
SAXIFRAGACEAE	
Ribes hirtellum	Northern Gooseberry
Saxifraga virginiensis	Early Saxifrage
SCROPHULARIACEAE	
Castilleja sessiliflora	Downy Yellow Painted Cup
Collinsia violacea	Violet Collinsia
Mimulus glabratus	Yellow Monkey Flower
Penstemon brevisepalus	Short-sepaled Beard Tongue
Penstemon grandiflorus	Large-flowered Beard Tongue
Veronica americana	American Brooklime
STYRACACEAE	
Halesia carolina	Silverbell Tree
Styrax grandifolia	Bigleaf Snowbell Bush
TILLIACEAE	
Tilia heterophylla	White Basswood
ULMACEAE	
Ulmus thomasii	Rock Elm
VALERIANACEAE	
Valeriana uliginosa	Marsh Valerian
Valerianella chenopodifolia	Corn Salad
Valerianella umbilicata	Corn Salad
VIOLACEAE	
Viola canadensis	Canada Violet
Viola incognita	Hairy White Violet
Viola primulifolia	Primrose Violet
Viola viarum	Plains Violet

(Source: Amended at 22 Ill. Reg. 21902, effective DEC 3 1998)

Section 1050.40 Threatened Flora of Illinois

SCIENTIFIC NAME	COMMON NAME
EQUISETACEAE	
Equisetum pratense	Meadow Horsetail
OPHIOGLOSSACEAE	
Botrychium biternatum	Southern Grape Fern
CUPRESSACEAE	
Juniperus communis	Ground Juniper
Thuja occidentalis	Arbor Vitae
PINACEAE	
Larix laricina	Tamarack

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

COMMELINACEAE	
Tradescantia bracteata	Prairie Spiderwort
CYPERACEAE	
Carex communis	Fibrous-rooted Sedge
Carex intumescens	Swollen Sedge
Carex oxylepis	Sharp-scaled Sedge
Carex prasina	Drooping Sedge
Carex viridula	Little Green Sedge
Carex willdenowii	Willdenow's Sedge
Carex woodii	Pretty Sedge
Cyperus grayioides	Umbrella Sedge
Eleocharis rostellata	Spike Rush
Rhynchospora alba	Beaked Rush
Scirpus hallii	Hall's Bulrush
Scirpus polyphyllus	Bulrush
JUNCAGINACEAE	
Triglochin maritima	Common Bog Arrow Grass
Triglochin palustris	Slender Bog Arrow Grass
LILIACEAE	
Erythronium mesochoreum	Prairie Trout-Lily
Melanthium virginicum	Bunchflower
Tofieldia glutinosa	False Asphodel
Veratrum woodii	False Hellebore
ORCHIDACEAE	
Corallorhiza maculata	Spotted Coral-root Orchid
Cypripedium candidum	White Lady's Slipper
POTAMOGETONACEAE	
Potamogeton gramineus	Grass-leaved Pondweed
ARISTOLOCHIACEAE	
Aristolochia serpentaria var. hastata	Virginia Snakeroot
ASCLEPIADACEAE	
Matelea obliqua	Climbing Milkweed
ASTERACEAE	
Aster furcatus	Forked Aster
Boltonia decurrens*	Decurrent False Aster
Cirsium hillii	Hill's Thistle
Cirsium pitcheri*	Pitcher's (Dune) Thistle
Eupatorium incarnatum	Thoroughwort
Helianthus angustifolius	Narrow-leaved Sunflower
Lactuca hirsuta	Wild Lettuce
Liatris scariosa var. nieuwlandii	Blazing Star
Solidago sciaphila	Cliff Goldenrod
BRASSICAEAE	
Cakile edentula	Sea Rocket
CAPRIFOLIACEAE	
Virburnum molle	Arrowwood
CARYOPHYLLACEAE	
Arenaria patula	Slender Sandwort

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

CISTACEAE	
Lechea intermedia	Pinweed
CUCURBITACEAE	
Melothria pendula	Squirting Cucumber
DROSERACEAE	
Drosera intermedia	Narrow-leaved Sundew
ERICACEAE	
Chamaedaphne calyculata	Leatherleaf
FABACEAE	
Lathyrus ochroleucus	Pale Vetchling
FAGACEAE	
Quercus phellos	Willow Oak
Quercus montana	Rock Chestnut Oak
LAMIACEAE	
Salvia azurea subsp. pitcheri	Blue Sage
ONAGRACEAE	
Epilobium strictum	Downy Willow Herb
Oenothera perennis	Small Sundrops
OROBANCHACEAE	
Orobanche ludoviciana	Broomrape
PRIMULACEAE	
Trientalis borealis	Star-flower
RANUNCULACEAE	
Cimicifuga rubifolia	Black Cohosh
Ranunculus rhomboideus	Prairie Buttercup
ROSACEAE	
Rubus pubescens	Dwarf Raspberry
RUBIACEAE	
Galium labradoricum	Bog Bedstraw
SAXIFRAGACEAE	
Sullivantia renifolia	Sullivantia
SCROPHULARIACEAE	
Agalinus skinneriana	Pale False Foxglove
Besseya bullii	Kittentails
Tomanthera auriculata	Ear-leafed Foxglove
Veronica scutellata	Marsh Speedwell
STYRACACEAE	
Styrax americana	Storax
ULMACEAE	
Planera aquatica	Water Elm
URTICACEAE	
Urtica chamaedriyoides	Nettle
VIOLACEAE	
Viola conspersa	Dog Violet

(Source: Amended at 22 Ill. Reg. 21902, effective DEC 3 1998)

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED RULE(S)

1) Heading of the Part: Quality Standards and Certification Requirements for Facilities Performing Mammography

2) Code Citation: 32 Ill. Adm. Code 370

3)

Section Number:	Adopted Action:
370.10	New Section
370.20	New Section
370.30	New Section
370.40	New Section
370.50	New Section
370.60	New Section
370.70	New Section
370.80	New Section
370.90	New Section
370.100	New Section
370.110	New Section
370.120	New Section
370.130	New Section
370.140	New Section
370.150	New Section
370.160	New Section
370.170	New Section
Appendix A	New Section
Appendix B	New Section
Table A	New Section

4) Statutory Authority: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40].

5) Effective Date of Rules: December 3, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? Yes

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in the Illinois Register:

August 14, 1998 (22 Ill. Reg. 14610)

10) Has JCAR issued a Statement of Objections to these Rules? No

11) Differences between proposal and final version:

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED RULE(S)

a) In Section 370.10, by adding an Agency Note as follows:

"AGENCY NOTE: The Department recognizes that some of the standards in this Part and FDA's final mammography rule are more restrictive than the standards in FDA's interim mammography rule that is effective until April 28, 1999. In enforcing a new or more restrictive provision than that found in FDA's interim rules, the Department, in accordance with 32 Ill. Adm. Code 310, will consider whether the violation would have been a violation of FDA's interim rules or the Radiation Protection Act of 1990.".

b) In Section 370.20, in the definition of "Mammography unit", add quotes before and after "or".

c) In Section 370.70(b)(3)(A), line 3, change "April 28, 1999" to "October 28, 1997".

d) In Section 370.110(b), line 4, delete "Section 370."

e) In Section 370.130(a), line 6, change "women" to "patients".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these rules replace an emergency rule currently in effect? Yes

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rules: This rule will replace an emergency rulemaking which became effective on August 3, 1998, for a maximum of 150 days. This rule establishes quality standards and certification requirements for facilities performing mammography. In addition, this Part establishes training, continuing education and continuing experience requirements for radiographers performing mammography services at mammography facilities.

16) Information and questions regarding these adopted rules shall be directed to:

Lyle J. Black
Senior Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 524-0770 (voice)
(217) 782-6133 (TDD)

The full text of the Adopted Rules begins on the next page:

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED RULE(S)

TITLE 32: ENERGY
CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 370
QUALITY STANDARDS AND CERTIFICATION REQUIREMENTS
FOR FACILITIES PERFORMING MAMMOGRAPHY

Section

AUTHORITY: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40].

SOURCE: Old Part repealed at 15 Ill. Reg. 10846, effective July 15, 1991; new Part adopted by emergency rule at 22 Ill. Reg. 14972, effective August 3, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 21915, effective DEC 3 1998.

Section 370.10 Scope

This Part establishes quality standards and certification requirements for facilities performing mammography to ensure that all mammography facilities are adequately and consistently evaluated for compliance with the standards provided in this Part. The provisions of this Part are in addition to and not in substitution for other applicable provisions of 32 Ill. Adm. Code 310, 320, 340, 400, 401 and 410.

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED RULE(S)

AGENCY NOTE: The Department recognizes that some of the standards in this Part and FDA's final mammography rule are more restrictive than the standards in FDA's interim mammography rule that is effective until April 28, 1999. In enforcing a new or more restrictive provision than that found in FDA's interim rules, the Department, in accordance with 32 Ill. Adm. Code 310, will consider whether the violation would have been a violation of FDA's interim rules or the Radiation Protection Act of 1990.

Section 370.20 Definitions

As used in this Part, the following definitions apply:

"Accreditation body" or "body" means an entity that has been approved by FDA to accredit mammography facilities.

"Action limits" or "action levels" means the minimum and maximum values of a quality assurance measurement that can be interpreted as representing acceptable performance with respect to the parameter being tested. Values less than the minimum or greater than the maximum action limit or level indicate that corrective action shall be taken by the facility. Action limits or levels are also sometimes called control limits or levels.

"Adverse event" means an undesirable experience associated with mammography activities that include but are not limited to:

Poor image quality;

Failure to send mammography reports within 30 days to the referring physician or in a timely manner to the self-referred patient; and

Use of personnel that do not meet the requirements of Section 370.70 of this Part.

"Air kerma" means kerma in a given mass of air. The unit used to measure the quantity of air kerma is the Gray (Gy). For x-rays with energies less than 300 kiloelectronvolts (keV), 1 Gy = 100 rad.

"Breast implant" means a prosthetic device implanted in the breast.

"Calendar quarter" means any one of the following time periods during a given year: January 1 through March 31, April 1 through June 30, July 1 through September 30 or October 1 through December 31.

"Category I" means medical educational activities that have been designated as Category I by the Accreditation Council for Continuing Medical Education (ACCME), the American Osteopathic Association (AOA),

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED RULE(S)

a state medical society or an equivalent organization.

"Certificate" means the certificate described in Section 370.50 of this Part.

"Certification" means the process of approval of a facility by the Department to provide mammography services.

"Clinical image" means a mammogram.

"Consumer" means an individual who chooses to comment or complain in reference to a mammography examination, including the patient or representative of the patient (e.g., family member or referring physician).

"Continuing education unit" or "continuing education credit" means one contact hour of training.

"Contact hour" means an hour of training received through direct instruction.

"Department" means the Department of Nuclear Safety.

"Diagnostic mammography" means mammography performed on a patient with:

clinical signs, symptoms or physical findings suggestive of breast cancer;

an abnormal or questionable screening mammogram;

a history of breast cancer with breast conservation surgery regardless of absence of clinical breast signs, symptoms or physical findings; or

augmented breasts regardless of absence of clinical breast signs, symptoms or physical findings.

AGENCY NOTE: Diagnostic mammography is also called problem-solving mammography or consultative mammography. This definition excludes mammography performed during invasive interventions for localization or biopsy procedures.

"Direct instruction" means:

Face-to-face interaction between instructor(s) and student(s), as when the instructor provides a lecture, conducts demonstrations or reviews student performance; or

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED RULE(S)

The administration and correction of student examinations by an instructor(s) with subsequent feedback to the student(s).

"Direct supervision" means that:

During joint interpretation of mammograms, the supervising interpreting physician reviews, discusses, and confirms the diagnosis of the physician being supervised and signs the resulting report before it is entered into the patient's records; or

During the performance of a mammography examination or survey of the facility's equipment and quality assurance program, the supervisor is present to observe and correct, as needed, the performance of the individual being supervised who is performing the examination or conducting the survey.

"Director" means the Director of the Department of Nuclear Safety.

"Established operating level" means the value of a particular quality assurance parameter that has been established as an acceptable normal level by the facility's quality assurance program.

"Facility" or "mammography installation" means a hospital, outpatient department, clinic, radiology practice, mobile unit, office of a physician or other facility that conducts mammography activities, including operation of equipment to produce a mammogram, processing of the mammogram, initial interpretation of the mammogram and maintaining viewing conditions for that interpretation.

"First allowable time" means the earliest time a resident physician is eligible to take the diagnostic radiology boards from an FDA-designated certifying body.

"FDA" means the Food and Drug Administration.

"Interim regulations" means the regulations entitled "Requirements for Accrediting Bodies of Mammography Facilities" (58 FR 67558-67565) and "Quality Standards and Certification Requirements for Mammography Facilities" (58 FR 67565-67572), published by FDA on December 21, 1993, and amended on September 30, 1994 (59 FR 49808-49813). These regulations established the standards that had to be met by mammography facilities in order to lawfully operate between October 1, 1994 and April 28, 1999.

"Interpreting physician" means a licensed physician who interprets mammograms and who meets the requirements of Section 370.70(a) of this Part.

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED RULE(S)

"Lead interpreting physician" means the interpreting physician assigned the general responsibility for ensuring that a facility's quality assurance program meets all of the requirements of Sections 370.100, 370.110, 370.120(b) and (c) and 370.130 of this Part. The administrative title and other supervisory responsibilities of the individual, if any, are left to the discretion of the facility.

"Mammogram" means radiographic image produced through mammography.

"Mammographic modality" means a technology for radiography of the breast. Examples are screen-film mammography and digital mammography.

"Mammography" means radiography of the breast.

"Mammography equipment evaluation" means an onsite assessment of mammography unit or image processor performance by a medical physicist for the purpose of making a preliminary determination as to whether the equipment meets all of the applicable standards in this Part.

"Mammography medical outcomes audit" means a systematic collection of mammography results and the comparison of those results with outcomes data.

"Mammography unit" or "units" means an assemblage of components for the production of x-rays for use during mammography, including, at a minimum, an x-ray generator, an x-ray control, a tube housing assembly, a beam limiting device and the supporting structures for these components.

"Mean optical density" means the average of the optical densities (OD) measured using phantom thicknesses of 2, 4 and 6 centimeters with values of kilovolt peak (kVp) clinically appropriate for those thicknesses.

"Medical physicist" means a person trained in evaluating the performance of mammography equipment and facility quality assurance programs and who meets the qualifications set forth in Section 370.70(c) of this Part.

"MQSA" means the federal Mammography Quality Standards Act of 1992.

"Multi-reading" means two or more physicians, at least one of whom is an interpreting physician, interpreting the same mammogram.

"Patient" means any individual who undergoes a mammography evaluation in a facility.

"Phantom" means a test object used to simulate radiographic

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED RULE(S)

characteristics of compressed breast tissue and containing components that radiographically model aspects of breast disease and cancer. It is equivalent to a nominal 4.2 centimeter compressed breast of average density (i.e., 50 percent adipose and 50 percent glandular tissue) and shall contain the following objects:

Spherical masses, composed of phenolic plastic, with thicknesses of: 2.00, 1.00, 0.75, 0.50 and 0.25 millimeter;

Specks, composed of aluminum oxide, with diameters of: 0.54, 0.40, 0.32, 0.24 and 0.16 millimeter;

Fibers, composed of nylon, with thicknesses of: 1.56, 1.12, 0.89, 0.75, 0.54 and 0.40 millimeter.

AGENCY NOTE: The Mammographic Accreditation Phantom Model 156, manufactured by Radiation Measurements, Inc., meets the above criteria and was chosen for use by the American College of Radiology's Mammography Accreditation Program.

"Phantom image" means a radiographic image of a phantom.

"Physical science" means physics, chemistry, radiation science (including medical physics and health physics) and engineering.

"Positive mammogram" means a mammogram that has an overall assessment of findings that are either "suspicious" or "highly suggestive of malignancy."

"Provisional certificate" means the provisional certificate described in Section 370.50(b) of this Part.

"Qualified instructor" means an individual whose training and experience adequately prepares him or her to carry out specified training assignments. Interpreting physicians, radiologic technologists or medical physicists who meet the requirements of Section 370.70 of this Part would be considered qualified instructors in their respective areas of mammography. Other examples of individuals who may be qualified instructors for the purpose of providing training to meet the requirements of this Part include, but are not limited to, instructors in a post-high school training institution and manufacturer's representatives.

"Quality control technologist" means an individual meeting the requirements of Section 370.100(a)(4) of this Part who is responsible for those quality assurance responsibilities not assigned to the lead interpreting physician or to the medical physicist.

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED RULE(S)

"Radiologic technologist" means an individual specifically trained in the use of radiographic equipment and the positioning of patients for radiographic examinations and when performing mammography without direct supervision, also meets the requirements set forth in Section 370.70(b) of this Part.

"Screening mammography" means mammography performed on an asymptomatic patient to detect the presence of breast cancer at an early stage.

"Serious adverse event" means an adverse advent that may significantly compromise clinical outcomes, or an adverse event for which a facility fails to take appropriate corrective action in a timely manner.

"Serious complaint" means a report of a serious adverse event.

"Standard breast" means a 4.2 centimeter (cm) thick compressed breast consisting of 50 percent glandular and 50 percent adipose tissue.

"Survey" means an onsite physics consultation and evaluation of a facility quality assurance program performed by a medical physicist.

"Time cycle" means the film development time.

"Traceable to a national standard" means an instrument is calibrated at either the National Institute of Standards and Technology (NIST) or at a calibration laboratory that participates in a proficiency program with NIST at least once every 2 years and the results of the proficiency test conducted within 24 months of calibration show agreement within plus or minus 3 percent of the national standard in the mammography energy range.

Section 370.30 Incorporations by Reference

All rules, standards and guidelines of agencies of the United States or nationally recognized organizations or associations that are incorporated by reference in this Part are incorporated as of the date specified in the reference and do not include any later amendments or editions. Copies of these rules, standards and guidelines that have been incorporated by reference are available for public inspection at the Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois.

Section 370.40 Exemptions

Mammography units used only during invasive interventions for localization or biopsy procedures are exempt from the requirements of this Part, except that such systems shall satisfy the criteria specified in Section 370.170 of this Part.

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED RULE(S)

Section 370.50 Requirements for Certification

a) A certificate issued by the Department is required for lawful operation of all mammography facilities subject to the provisions of this Part. As soon as practicable after the effective date of this Part, the Department will issue a certificate to each facility holding a currently valid certificate issued by FDA under the Mammography Quality Standards Act of 1992. The term of such certificate shall be for the same period of time as the remainder of the term of the certificate issued by FDA. Certificate holding facilities shall meet the requirements of Sections 370.70, 370.80, 370.90, 370.100, 370.110, 370.120 and 370.130 of this Part and be accredited by an FDA-approved accreditation body.
AGENCY NOTE: Currently, the only FDA-approved accrediting body in Illinois is the American College of Radiology.
AGENCY NOTE: This subsection (a) is intended to facilitate the transition from FDA issued certificates under MQSA to Department issued certificates implementing a State program under MQSA. The Department recognizes that facilities with currently valid FDA MQSA certificates have met the standards for certificate issuance required by FDA and this Part.
AGENCY NOTE: Except for the initial "grandfathered" certificates issued to facilities holding FDA certificates and except for provisional certificates to new facilities issued under this Section, the term of certificates issued under this Section shall be for three years. Applications for all other certificate shall be made in accordance with this Section.

b) Application.
   1) Certificates.
      A) In order to qualify for a certificate, a facility shall apply to an FDA-approved accreditation body.
      B) Following the Department's receipt of the accreditation body's decision to accredit a facility, the Department may issue a certificate to the facility, or renew an existing certificate, if the Department determines that the facility has satisfied the requirements for certification or recertification.
   2) Provisional certificates. A new facility is eligible to apply for a provisional certificate. The provisional certificate will enable the facility to perform mammography and to obtain the clinical images needed to complete the accreditation process.
      A) To receive a provisional certificate, a facility shall apply and submit the required information to an FDA-approved accreditation body.
      B) Following the Department's receipt of the accreditation body's decision that a facility has submitted the required information, the Department may issue a provisional certificate to a facility upon determination that the

facility has satisfied the requirements for provisional certification. A provisional certificate shall be effective for up to 6 months from the date of issuance. A provisional certificate cannot be renewed, but a facility may apply for a 90 day extension of the provisional certificate.

3) Extension of provisional certificate.

A) To apply for a 90 day extension to a provisional certificate, a facility shall submit to its accreditation body a statement of what the facility is doing to obtain certification and evidence that there would be a significant adverse impact on access to mammography in the geographic area served if such facility did not obtain an extension.

B) Following the Department's receipt of the accreditation body's decision that a facility has submitted the required information, the Department may issue a 90 day extension of the provisional certificate to the facility upon determination that the facility has satisfied the requirements for the 90 day extension.

C) There can be no renewal of a provisional certificate beyond the 90-day extension.

c) Reinstatement policy. A previously certified facility that has allowed its certificate to expire, that has been refused a renewal of its certificate by FDA or the Department, or that has had its certificate suspended or revoked by FDA or the Department, may apply for reinstatement. If reinstated, the facility will be eligible for a provisional certificate.

1) Unless prohibited from reinstatement under subsection (c)(4) of this Section, a facility applying for reinstatement shall:

A) Contact an FDA-approved accreditation body to determine the requirements for reapplication for accreditation;

B) Fully document its history as a previously provisionally certified or certified mammography facility, including the following information:

i) Name and address of the facility under which it was previously provisionally certified or certified;

ii) Name of previous owner/lessor;

iii) Facility identification number assigned to the facility under its previous certification; and

iv) Expiration date of the most recent provisional certificate or certificate; and

C) Justify application for reinstatement of accreditation by submitting to the accreditation body a corrective action plan that details how the facility has corrected deficiencies that contributed to the lapse, denial of renewal or revocation of its certificate.

2) The Department may issue a provisional certificate to a previously certified facility:

A) Following the Department's receipt of the accreditation

body's decision that a facility has adequately corrected, or is in the process of correcting, pertinent deficiencies at the facility; and

B) The Department determines that the facility has taken sufficient corrective action since the lapse, denial of renewal or revocation of its previous certificate.

3) After receiving the provisional certificate, the facility may lawfully resume performing mammography services while completing the requirements for certification.

4) If a facility's certificate was revoked on the basis of an act described in Section 370.160 of this Part, no person who owned or operated that facility at the time the act occurred may own or operate a mammography facility within 2 years after the date of revocation.

d) Appeals of adverse accreditation or reaccreditation decisions. The appeals procedures described in this subsection (d) are available only for adverse accreditation or reaccreditation decisions that preclude certification or recertification by the Department.

1) Upon learning that a facility has failed to become accredited or reaccredited, the Department will notify the facility that the Department is unable to certify that facility without proof of accreditation.

2) A facility that has been denied accreditation or reaccreditation is entitled to an appeals process from the accreditation body. A facility shall avail itself of the accreditation body's appeal process before appealing that decision to the Department.

3) In the event that a facility, after availing itself of the accreditation body's appeal process, receives an adverse accreditation or reaccreditation decision, the facility may within 30 days after such adverse decision submit a request for review of the adverse accreditation or reaccrediatation decision to the Department.

4) Within 30 days following receipt of such written request, the Department shall issue a Preliminary Order and Notice of Opportunity for Hearing to the facility in accordance with 32 Ill. Adm. Code 200 stating the basis for the denial of certification or recertification.

5) Upon issuance of the Preliminary Order and Notice of Opportunity for Hearing, such provisions of 32 Ill. Adm. Code 200 shall apply as may be applicable.

Section 370.60 Fees

a) Except as provided in subsection (b) of this Section, the Department shall assess each certified mammography installation an annual certification fee of $750 in each State fiscal year (July 1 - June 30). The Department shall bill the mammography installation for the annual fee after July 1. The annual fee shall be due and payable

within 60 days after the date of billing. Failure to pay the required fee may result in revocation of the certificate.

AGENCY NOTE: For mammography installations holding valid FDA mammography certificates on the effective date of this Part, the initial annual fee shall be billed as soon as practicable after the effective date of this Part. The annual fee described in subsection (a) of this Section applies to both fully and provisionally certified mammography installations.

b) A new mammography installation issued an initial provisional certificate after December 31 of any State fiscal year shall not be required to pay a certification fee for that State fiscal year.

Section 370.70 Personnel Requirements

Personnel. The following requirements apply to all personnel involved in any aspect of mammography, including the production, processing, and interpretation of mammograms and related quality assurance activities:

a) Interpreting physicians. All physicians interpreting mammograms shall meet the following qualifications:

1) Initial qualifications. Unless the exemption in subsection (a)(3) of this Section applies, before beginning to interpret mammograms independently, the interpreting physician shall:

A) Be a physician licensed under the Medical Practice Act of 1987 to practice medicine in all its branches [225 ILCS 60];

B) Be certified in diagnostic radiology by either the American Board of Radiology, the American Osteopathic Board of Radiology, or Royal College of Physicians and Surgeons of Canada or have had at least 3 months of documented formal training in the interpretation of mammograms and in topics related to mammography. The training shall include instruction in radiation physics, including radiation physics specific to mammography, radiation effects and radiation protection. The mammographic interpretation component shall be under the direct supervision of a physician who meets the requirements of subsection (a) of this Section;

C) Have a minimum of 60 hours of documented medical education in mammography, which shall include instruction in the interpretation of mammograms and education in basic breast anatomy, pathology, physiology, technical aspects of mammography and quality assurance and quality control in mammography. All 60 of these hours shall be Category I and at least 15 of the Category I hours shall have been acquired within the 3 years immediately prior to the date that the physician qualifies as an interpreting physician. Hours spent in residency specifically devoted to mammography will be considered as equivalent to Category I continuing medical education credits and will be accepted if documented in

writing by the appropriate representative of the training institution; and

D) Unless the exemption in subsection (a)(3) of this Section applies, have interpreted or multi-read at least 240 mammographic examinations within the 6 month period immediately prior to the date that the physician qualifies as an interpreting physician. This interpretation or multi-reading shall be under the direct supervision of an interpreting physician.

2) Continuing experience and education. All interpreting physicians shall maintain their qualifications by meeting the following requirements:

A) Following the second anniversary date of the end of the calendar quarter in which the requirements of subsection (a)(1) of this Section were completed, the interpreting physician shall have interpreted or multi-read at least 960 mammographic examinations during the 24 months immediately preceding the date of the facility's annual MQSA inspection, or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility will choose one of these dates to determine the 24 month period.

B) Following the third anniversary date of the end of the calendar quarter in which the requirements of subsection (a)(1) of this Section were completed, the interpreting physician shall have taught or completed at least 15 Category I continuing medical education units in mammography during the 36 months immediately preceding the date of the facility's annual MQSA inspection, or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility will choose one of these dates to determine the 36 month period. This training shall include at least 6 Category I continuing medical education credits in each mammographic modality used by the interpreting physician in his or her practice.

C) Before an interpreting physician may begin independently interpreting mammograms produced by a new mammographic modality, that is, a mammographic modality in which the physician has not previously been trained, the interpreting physician shall have at least 8 hours of training in the new mammographic modality.

D) Units earned through teaching a specific course can be counted only once towards the 15 units required by subsection (a)(2) of this Section, even if the course is taught multiple times during the previous 36 months.

3) Exemptions.

A) Those physicians who qualified as interpreting physicians under FDA's interim regulations prior to April 28, 1999, are

considered to have met the initial requirements of subsection (a)(1) of this Section. These physicians may continue to interpret mammograms provided they continue to meet the requirements of subsection (a)(1) of this Section and the continuing experience and education requirements of subsection (a)(2) of this Section.

B) Physicians who have interpreted or multi-read at least 240 mammographic examinations under the direct supervision of an interpreting physician in any 6 month period during the last 2 years of a diagnostic radiology residency and who become appropriately board certified at the first allowable time, as defined by an eligible certifying body, are otherwise exempt from subsection (a)(1)(D) of this Section.

4) Reestablishing qualifications. Interpreting physicians who fail to maintain the required continuing experience or continuing education requirements of subsection (a)(2) of this Section, shall reestablish their qualifications before resuming the independent interpretation of mammograms as follows:

A) Interpret or multi-read at least 240 mammographic examinations under the direct supervision of an interpreting physician, or interpret or multi-read a sufficient number of mammographic examinations, under the direct supervision of an interpreting physician, to bring the physician's total up to 960 examinations for the prior 24 months, whichever is less.

B) Interpreting physicians who fail to meet the continuing education requirements of subsection (a)(2)(B) of this Section shall obtain a sufficient number of additional Category I continuing medical education credits in mammography to bring their total up to the required 15 credits in the previous 36 months before resuming independent interpretation.

C) The interpretations required under this Section shall be done within the 6 months immediately prior to resuming independent interpretation.

b) Radiologic technologists who perform mammographic examinations shall be accredited by the Department and shall meet the following:

1) Training requirements.

A) Have, prior to April 28, 1999, qualified as a radiologic technologist under FDA's interim regulations; or

B) Complete at least 40 contact hours of documented training specific to mammography under the supervision of a qualified instructor. The hours of documented training shall include, but not necessarily be limited to:

i) Training in breast anatomy and physiology, positioning and compression, quality assurance/quality control techniques and imaging of patients with breast implants;

ii) The performance of a minimum of 25 examinations under the direct supervision of an individual qualified under subsection (b) of this Section; and

iii) At least 8 hours of training in each mammography modality to be used by the technologist in performing mammography exams.

2) Continuing education requirements.

A) Following the third anniversary date of the end of the calendar quarter in which the requirements of subsection (b)(1) of this Section were completed, the radiologic technologist who performs mammography shall have taught or completed at least 15 continuing education units in mammography during the 36 months immediately preceding the date of the facility's annual MQSA inspection, or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility will choose one of these dates to determine the 36 month period.

B) Units earned through teaching a specific course can be counted only once towards the 15 hours of continuing education requirements required in subsection (b)(2) of this Section, even if the course is taught multiple times during the previous 36 months.

C) At least 6 of the continuing education units required in subsection (b)(2) of this Section shall be related to each mammographic modality used by the technologist.

D) Requalification. Radiologic technologists who fail to meet the continuing education requirements of subsection (b)(2)(A) of this Section shall obtain a sufficient number of continuing education units in mammography to bring their total up to at least 15 in the previous 3 years, at least 6 of which shall be related to each modality used by the technologist in mammography. The technologist shall not resume performing unsupervised mammography examinations until the continuing education requirements are completed.

E) Before a radiologic technologist may begin independently performing mammography examinations using a mammographic modality other than one of those for which the technologist received training under subsection (b)(1)(B)(iii) of this Section, the technologist shall have at least 8 hours of continuing education units in the new modality.

3) Continuing experience requirements.

A) Following the second anniversary date of the end of the calendar quarter in which the requirements of subsection (b)(1) of this Section were completed or of October 28, 1997, whichever is later, the radiologic technologist shall have performed a minimum of 200 mammography examinations during the 24 months immediately preceding the date of the facility's annual MQSA inspection, or the last day of the

calendar quarter preceding the inspection or any date in between the two. The facility will choose one of these dates to determine the 24 month period.

B) Requalification. Radiologic technologists who fail to meet the continuing experience requirements of subsection (b)(3)(A) of this Section shall perform a minimum of 25 mammography examinations under the direct supervision of a qualified radiologic technologist before resuming the performance of unsupervised mammography.

C) Programs, courses or other activities intended to meet the requirement for initial, or requalification, mammography training or continuing education in mammography shall be approved by the Department.

D) Completion of initial, or requalification, mammography training and continuing education in mammography shall be verified to the Department.

c) Medical physicists. All medical physicists conducting surveys of mammography facilities and providing oversight of the facility quality assurance program shall meet the following:

1) Initial qualifications.

A) Be approved by the Department as diagnostic imaging specialists pursuant to 32 Ill. Adm. Code 360.20 or be certified in diagnostic radiological physics or radiological physics by either the American Board of Radiology (ABR) or the American Board of Medical Physics (ABMP);

B) Have a masters degree or higher in a physical science from an accredited institution, with no less than 20 semester hours or equivalent (e.g., 30 quarter hours) of college undergraduate or graduate level physics;

C) Have 20 contact hours of documented specialized training in conducting surveys of mammography facilities; and

D) Have the experience of conducting surveys of at least 1 mammography facility and a total of at least 10 mammography units. No more than one survey of a specific unit within a period of 60 days can be counted towards the total mammography unit survey requirement. After April 28, 1999, experience conducting surveys shall be acquired under the direct supervision of a medical physicist who meets all the requirements of subsections (c)(1), (c)(2) and (c)(3) of this Section.

2) Alternative initial qualifications.

A) Have qualified as a medical physicist under FDA's interim regulations and retained that qualification by maintenance of the active status of any licensure, approval or certification required;

B) Have, prior to April 28, 1999, obtained a bachelor's degree or higher in a physical science from an accredited institution with no less than 10 semester hours or

equivalent of college undergraduate or graduate level physics;

C) Have 40 contact hours of documented specialized training in conducting surveys of mammography facilities; and

D) Have the experience of conducting surveys of at least 1 mammography facility and a total of at least 20 mammography units. No more than one survey of a specific unit within a period of 60 days can be counted towards the total mammography unit survey requirement. The training and experience requirements shall be met after fulfilling the degree requirement.

3) Continuing education and experience. All medical physicists shall maintain their qualifications by meeting the following requirements:

A) Continuing education. Beginning 3 years after the end of the calendar quarter in which the requirements of subsection (c)(1) or (c)(2) of this Section were completed, the medical physicist shall have taught, or completed, at least 15 continuing education units in mammography during the 36 months immediately preceding the date of the facility's annual inspection, or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility shall choose one of these dates to determine the 36 month period. This continuing education shall include hours of training appropriate to each mammographic modality evaluated by the medical physicist during his or her surveys or oversight of quality assurance programs. Units earned through teaching a specific course can be counted only once towards the required 15 continuing education units in a 36 month period, even if the course is taught multiple times during the 36 months.

B) Continuing experience. Beginning 2 years after the end of the calendar quarter in which the requirements of subsection (c)(1) or (c)(2) of this Section were completed or of October 28, 1997, whichever is later, the medical physicist shall have surveyed at least 2 mammography facilities and a total of at least 6 mammography units during the 24 months immediately preceding the date of the facility's annual MQSA inspection, or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility shall choose one of these dates to determine the 24 month period. No more than one survey of a specific facility within a 10 month period or a specific unit within a period of 60 days can be counted towards the total mammography unit survey requirement.

C) Before a medical physicist may begin independently performing mammographic surveys of a new mammographic modality, that is, a mammographic modality other than one

for which the physicist received training to qualify under subsection (c)(1) or (c)(2) of this Section, the physicist shall receive at least 8 hours of training in surveying units of the new mammographic modality.

4) Reestablishing qualifications. Medical physicists who fail to maintain the required continuing education and experience qualifications of subsection (c)(3) of this Section may not perform the MQSA surveys without the supervision of a qualified medical physicist. Before independently surveying another facility, medical physicists shall reestablish their qualifications, as follows:

A) Medical physicists who fail to meet the continuing educational requirements of subsection (c)(3)(A) of this Section shall obtain a sufficient number of continuing education units to bring their total units up to the required 15 units in the previous 3 years.

B) Medical physicists who fail to meet the continuing experience requirement of subsection (c)(3)(B) of this Section shall complete a sufficient number of surveys under the direct supervision of a medical physicist who meets the qualifications of subsection (c)(1) or (c)(2) of this Section, to bring their total surveys up to the required 2 facilities and 6 units in the previous 24 months. No more than one survey of a specific unit within a period of 60 days can be counted towards the total mammography unit survey requirement.

d) Retention of personnel records. Facilities shall maintain records to document the qualifications of all personnel who worked at the facility as interpreting physicians, radiologic technologists or medical physicists. These records shall be available for review by the Department. Records of personnel no longer employed by the facility shall not be discarded until the next annual inspection has been completed and the Department has determined that the facility is in compliance with the personnel requirements of this Section.

Section 370.80 Equipment Requirements

The equipment requirements f this Section are intended to ensure that mammography equipment is capabl of producing quality mammograms over the full range of clinical conditions.

a) Prohibited equipment. Radiographic equipment designed for general purpose shall not be used for mammography. Mammography shall only be performed with a special purpose radiation machine specifically designed for and used solely for mammography procedures.

b) General. All radiographic equipment used for mammography shall be certified under the "Performance Standards for Diagnostic X-Ray Systems and their Major Components," published at 21 CFR 1020.30, effective as of April 1, 1997.

c) Motion of tube-image receptor assembly.

1) The assembly shall be capable of being fixed in any position where it is designed to operate. Once fixed in any such position, it shall not undergo unintended motion.

2) The mechanism ensuring compliance with subsection (c)(1) of this Section shall not fail in the event of power interruption.

d) Image receptor sizes.

1) Systems using screen-film image receptors shall provide, at a minimum, for operation with image receptors of 18 x 24 centimeters (cm) and 24 x 30 cm.

2) Systems using screen-film image receptors shall be equipped with moving grids matched to all image receptor sizes provided.

3) Systems used for magnification procedures shall be capable of operation with the grid removed from between the source and image receptor.

e) Beam limitation and light fields.

1) All systems shall have beam-limiting devices that allow the useful beam to extend to or beyond the chest wall edge of the image receptor.

2) For any mammography system with a light beam that passes through the x-ray beam-limiting device, the light shall provide an average illumination of not less than 160 lux (15 foot candles) at 100 cm or the maximum source-image receptor distance (SID), whichever is less.

f) Magnification.

1) Systems used to perform noninterventional problem solving procedures shall have radiographic magnification capability available for use by the operator.

2) Systems used for magnification procedures shall provide, at a minimum, at least one magnification value within the range of 1.4 to 2.0.

g) Focal spot selection.

1) When more than one focal spot is provided, the system shall indicate, prior to exposure, which focal spot is selected.

2) When more than one target material is provided, the system shall indicate, prior to exposure, the preselected target material.

3) When the target material and/or focal spot is selected by a system algorithm that is based on the exposure or on a test exposure, the system shall display, after the exposure, the target material and/or focal spot actually used during the exposure.

h) Compression. All mammography systems shall incorporate a compression device.

1) Application of compression. Effective October 28, 2002, each system shall provide:

A) An initial power-driven compression activated by hands-free controls operable from both sides of the patient; and

B) Fine adjustment compression controls operable from both

sides of the patient.

2) Compression paddle.

A) Systems shall be equipped with different sized compression paddles that match the sizes of all full-field image receptors provided for the system. Compression paddles for special purposes, including those smaller than the full size of the image receptor (for "spot compression") may be provided. Such compression paddles for special purposes are not subject to the requirements of subsections (h)(2)(D) and (h)(2)(E) of this Section.

B) Except as provided in subsection (h)(2)(C) of this Section, the compression paddle shall be flat and parallel to the breast support table and shall not deflect from parallel by more than 1.0 cm at any point on the surface of the compression paddle when compression is applied.

C) Equipment intended by the manufacturer's design to not be flat and parallel to the breast support table during compression shall meet the manufacturer's design specifications and maintenance requirements.

D) The chest wall edge of the compression paddle shall be straight and parallel to the edge of the image receptor.

E) The chest wall edge may be bent upward to allow for patient comfort but shall not appear on the image.

i) Technique factor selection and display.

1) Manual selection of milliampere seconds (mAs) or at least one of its component parts (milliampere (mA) and/or time) shall be available.

2) The technique factors (peak tube potential in kilovolt (kV) and either tube current in mA and exposure time in seconds or the product of tube current and exposure time in mAs) to be used during an exposure shall be indicated before the exposure begins, except when automatic exposure controls (AEC) are used, in which case the technique factors that are set prior to the exposure shall be indicated.

3) Following AEC mode use, the system shall indicate the actual kilovoltage peak (kVp) and mAs used during the exposure. The mAs may be displayed as mA and time.

j) Automatic exposure control.

1) Each screen-film system shall provide an AEC mode that is operable in all combinations of equipment configuration provided, e.g., grid, nongrid, magnification, nonmagnification and various target-filter combinations.

2) The positioning or selection of the detector shall permit flexibility in the placement of the detector under the target tissue.

A) The size and available positions of the detector shall be clearly indicated at the x-ray input surface of the breast compression paddle.

B) The selected position of the detector shall be clearly indicated.

3) The system shall provide means for the operator to vary the selected optical density from the normal (zero) setting.

k) X-ray film. The facility shall use x-ray film for mammography that has been designated by the film manufacturer as appropriate for mammography.

l) Intensifying screens. The facility shall use intensifying screens for mammography that have been designated by the screen manufacturer as appropriate for mammography and shall use film that is matched to the screen's spectral output as specified by the manufacturer.

m) Film processing solutions. For processing mammography films, the facility shall use chemical solutions that are capable of developing the films used by the facility in a manner equivalent to the minimum requirements specified by the film manufacturer.

n) Lighting. The facility shall make special lights for film illumination, i.e., hot-lights, capable of producing light levels greater than that provided by the view box, available to the interpreting physicians.

o) Film masking devices. Facilities shall ensure that film masking devices that can limit the illuminated area to a region equal to or smaller than the exposed portion of the film are available to all interpreting physicians interpreting for the facility.

Section 370.90 Medical Records and Mammography Reports

a) Contents and terminology. Each facility shall prepare a written report of the results of each mammography examination performed under its certificate. The mammography report shall include the following information:

1) The name of the patient and an additional patient identifier;

2) Date of examination;

3) The name of the interpreting physician who interpreted the mammogram;

4) Overall final assessment of findings, classified in one of the following categories:

A) "Negative." Nothing to comment upon (if the interpreting physician is aware of clinical findings or symptoms, despite the negative assessment, these shall be explained);

B) "Benign." Also a negative assessment;

C) "Probably Benign." Finding(s) has a high probability of being benign;

D) "Suspicious." Finding(s) without all the characteristic morphology of breast cancer but indicating a definite probability of being malignant;

E) "Highly suggestive of malignancy." Finding(s) has a high probability of being malignant;

5) In cases where no final assessment category can be assigned due

to incomplete work-up, "Incomplete: Need additional imaging evaluation" shall be assigned as an assessment and reasons why no assessment can be made shall be stated by the interpreting physician; and

6) Recommendations made to the health care provider about what additional actions, if any, should be taken. All clinical questions raised by the referring health care provider shall be addressed in the report to the extent possible, even if the assessment is negative or benign.

b) Communication of mammography results to the patient. Each facility shall maintain a system to ensure that the results of each mammographic examination are communicated to the patient in a timely manner. If assessments are "Suspicious" or "Highly suggestive of malignancy" and the patient has not named a health care provider, the facility shall make reasonable attempts to ensure that the results are communicated to the patient as soon as possible.

1) As soon as possible, but no later than 30 days after the date of the mammography examination, patients who do not name a health care provider to receive the mammography report shall be sent the report described in subsection (a) of this Section, in addition to a written notification of results in lay terms.

2) Each facility that accepts patients who do not have a primary care provider shall maintain a system for referring such patients to a health care provider when clinically indicated.

c) Communication of mammography results to health care providers. When the patient has a referring health care provider or the patient has named a health care provider, the facility shall:

1) Provide a written report of the mammography examination, including the items listed in subsection (a) of this Section, to that health care provider as soon as possible, but no later than 30 days after the date of the mammography examination; and

2) If the assessment is "Suspicious" or "Highly suggestive of malignancy," make reasonable attempts to communicate with the health care provider as soon as possible, or if the health care provider is unavailable, to a responsible designee of the health care provider.

d) Recordkeeping. Eac facility that performs mammograms:

1) Shall (except as provided in subsection (c)(2) of this Section) maintain mammography films and reports in a permanent medical record of the patient for a period of not less than 5 years, or not less than 10 years if no additional mammograms of the patient are performed at the facility;

2) Shall upon request by, or on behalf of, the patient permanently or temporarily transfer the original mammograms and copies of the patient's reports to a medical institution, or to a physician or health care provider of the patient, or to the patient directly. Any fee charged to the patient for providing the services in this subsection (d) shall not exceed the documented costs associated

with this service.

e) Mammographic image identification. Each mammographic image shall have the following information indicated on it in a permanent, legible, and unambiguous manner and placed so as not to obscure anatomic structures:

1) Name of patient and an additional patient identifier.

2) Date of examination.

3) View and laterality. This information shall be placed on the image in a position near the axilla. Standardized codes specified by the accreditation body shall be used to identify view and laterality.

4) Facility name and location. At a minimum, the location shall include the city, state and zip code of the facility.

5) Technologist identification.

6) Cassette/screen identification.

7) Mammography unit identification, if there is more than one unit in the facility.

Section 370.100 Quality Assurance Requirements

Each facility shall establish and maintain a quality assurance program to ensure the safety, reliability, clarity and accuracy of mammography services performed at the facility.

a) Responsible individuals. Responsibility for the quality assurance program and for each of its elements shall be assigned to individuals who are qualified for their assignments and who shall be allowed adequate time to perform these duties.

1) Lead interpreting physician. The facility shall identify a lead interpreting physician who shall have the general responsibility of ensuring that the quality assurance program meets all requirements of this Section and Sections 370.110, 370.120(b) and (c) and 370.130 of this Part. No other individual shall be assigned or shall retain responsibility for quality assurance tasks unless the lead interpreting physician has determined that the individual's qualifications for, and performance of, the assignment are adequate.

2) Interpreting physicians. All interpreting physicians interpreting mammograms for the facility shall:

A) Follow the facility procedures for corrective action when the images they are asked to interpret are of poor quality; and

B) Participate in the facility's medical outcomes audit program.

3) Medical physicist. Each facility shall have the services of a medical physicist available to survey mammography equipment and oversee the equipment-related quality assurance practices of the facility. At a minimum, the medical physicist(s) shall be responsible for performing the surveys and mammography equipment

evaluations and providing the facility with the reports described in Section 370.110(i) of this Part.

4) Quality control technologist. Responsibility for all individual tasks within the quality assurance program not assigned to the lead interpreting physician or the medical physicist shall be assigned to a quality control technologist(s). The tasks are to be performed by the quality control technologist or by other personnel qualified to perform the tasks. When other personnel are utilized for these tasks, the quality control technologist shall ensure that the tasks are completed in such a way as to meet the requirements of Section 370.110 of this Part.

b) Personnel quality assurance records. The lead interpreting physician, quality control technologist and medical physicist shall ensure that records concerning employee qualifications to meet assigned quality assurance tasks, mammography technique and procedures, quality control (including monitoring data, problems detected by analysis of that data, corrective actions and the effectiveness of the corrective actions), safety, and protection are properly maintained and updated. These quality control records shall be kept for each test specified in Section 370.110 of this Part until the next annual inspection has been completed and the Department has determined that the facility is in compliance with the quality assurance requirements or until the test has been performed two additional times at the required frequency, whichever is longer.

Section 370.110 Equipment Quality Assurance Tests

a) Daily quality control tests. Film processors used to develop mammograms shall be adjusted and maintained to meet the technical development specifications for the mammography film in use. A processor performance test shall be performed on each day that examinations are performed before any clinical films are processed that day. The test shall include an assessment of base plus fog density, mid-density and density difference, using the mammography film used clinically at the facility.

1) The base plus fog density shall be within plus 0.03 of the established operating level.

2) The mid-density shall be within plus or minus 0.15 of the established operating level.

3) The density difference shall be within plus or minus 0.15 of the established operating level.

b) Weekly quality control tests. Facilities with screen-film systems shall perform a phantom image quality evaluation test at least weekly, using the Mammography Image Evaluation Protocol found in Appendix B of this Part.

1) The optical density of the film at the center of an image of the phantom shall be at least 1.20 when exposed under a typical clinical condition.

2) The optical density of the film at the center of the phantom image shall not change by more than plus or minus 0.20 from the established operating level.

3) The mammography system shall be capable of producing images of the mammography phantom in which the following objects are visualized:

A) The three largest masses with thicknesses of 2.0, 1.0 and 0.75 millimeter.

B) The three largest speck groups with diameters of 0.54, 0.40 and 0.32 millimeter.

C) The four largest fibers with thicknesses of 1.56, 1.12, 0.89 and 0.75 millimeter.

4) The density difference between the background of the phantom and an added test object, used to assess image contrast, shall be measured and shall not vary by more than plus or minus 0.05 from the established operating level.

c) Quarterly quality control tests. Facilities with screen-film systems shall perform the following quality control tests at least quarterly:

1) Fixer retention in film. The residual fixer shall be no more than 5 micrograms per square cm.

2) Repeat analysis. If the total repeat or reject rate changes from the previously determined rate by more than 2.0 percent of the total films included in the analysis, the reason(s) for the change shall be determined. Any corrective actions shall be recorded and the results of these corrective actions shall be assessed.

d) Semiannual quality control tests. Facilities with screen-film systems shall perform the following quality control tests at least semiannually:

1) Darkroom fog. The optical density attributable to darkroom fog shall not exceed 0.05 when a mammography film of the type used in the facility, which has a mid-density of no less than 1.20, is exposed to typical darkroom conditions for 2 minutes while such film is placed on the counter top emulsion side up. If the darkroom has a safelight used for mammography film, it shall be on during this test.

2) Screen-film contact. Testing for screen-film contact shall be conducted using 40 mesh copper screen. All cassettes used in the facility for mammography shall be tested.

3) Compression device performance. The compression device performance shall:

A) Be capable of maintaining a compression force of at least 111 newtons (25 pounds) for at least 15 seconds;

B) Not be capable of exceeding a compression force of more than 209 newtons (47 pounds) when used in an automatic or power drive mode.

e) Annual quality control tests. Facilities with screen-film systems shall perform the following quality control tests at least annually:

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED RULE(S)

1) Automatic exposure control performance.
   A) The AEC shall be capable of maintaining film optical density within plus or minus 0.30 of the mean optical density when thickness of a homogeneous material is varied over a range of 2 to 6 cm and the kVp is varied appropriately for such thicknesses over the kVp range used clinically in the facility. If this requirement cannot be met, a technique chart shall be developed showing appropriate techniques (kVp and density control settings) for different breast thicknesses and compositions that shall be used so that optical densities within plus or minus 0.30 of the average under phototimed conditions can be produced.
   B) After October 28, 2002, the AEC shall be capable of maintaining film optical density within plus or minus 0.15 of the mean optical density when thickness of a homogeneous material is varied over a range of 2 to 6 cm and the kVp is varied appropriately for such thicknesses over the kVp range used clinically in the facility.
   C) The optical density of the film in the center of the phantom image shall not be less than 1.20.
2) Kilovoltage peak accuracy and reproducibility. The kVp shall be accurate within plus or minus 5 percent of the indicated or selected kVp at:
   A) The lowest clinical kVp that can be measured by a kVp test device;
   B) The most commonly used clinical kVp;
   C) The highest available clinical kVp; and
   D) At the most commonly used clinical settings of kVp, the coefficient of variation of reproducibility of the kVp shall be equal to or less than 0.02.
3) Focal spot dimensions. Until October 28, 2002, focal spot condition shall be evaluated by measuring focal spot dimensions or by determining system resolution. After October 28, 2002, facilities shall evaluate focal spot condition only by determining the system resolution. For focal spot dimensions, the measured values of the focal spot length (dimension parallel to the anode cathode axis) and width (dimension perpendicular to the anode-cathode axis) shall be within the tolerance limits specified in this subsection (e)(3).

Focal Spot Tolerance Limit

Nomical Focal Spot Size (mm)	Maximum Measured Dimensions	
	Width (mm)	Length (mm)
0.10	0.15	0.15
0.15	0.23	0.23
0.20	0.30	0.30
0.30	0.45	0.65
0.40	0.60	0.85
0.60	0.90	1.30

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED RULE(S)

4) System Resolution. After October 28, 2002, facilities shall evaluate focal spot condition only by determining the system resolution as follows:
   A) Each x-ray system used for mammography, in combination with the mammography screen-film combination used in the facility, shall provide a minimum resolution of 11 cycles/millimeter (mm) (line-pairs/mm) when a high contrast resolution bar test pattern is oriented with the bars perpendicular to the anode-cathode axis, and a minimum resolution of 13 line-pairs/mm when the bars are parallel to that axis.
   B) The bar pattern shall be placed 4.5 cm above the breast support surface, centered with respect to the chest wall edge of the image receptor, and with the edge of the pattern within 1 cm of the chest wall edge of the image receptor.
   C) When more than one target material is provided, the measurement shall be made using the appropriate focal spot for each target material.
   D) When more than one source-image receptor distance is provided, the test shall be performed at SID most commonly used clinically.
   E) Test kVp shall be set at the value used clinically by the facility for a standard breast and shall be performed in the AEC mode, if available. If necessary, a suitable absorber may be placed in the beam to increase exposure times. The screen-film cassette combination used by the facility shall be used to test for this requirement and shall be placed in the normal location used for clinical procedures.
5) Beam quality and half-value layer (HVL). For mammography systems operating at x-ray tube potentials of less than 50 kVp, the HVL in millimeters of aluminum of the useful beam shall be equal to or greater than the product of the measured tube potential in kilivolts multiplied by 0.01. The half-value layer shall be measured with the compression device in the beam and shall be measured at the same tube potential used in Appendix A of this Part, Mammography Dose Measurement Protocol, and Appendix B of this Part, Mammography Phantom Image Evaluation.
   AGENCY NOTE: If the measured half-value layer is significantly greater than the specified minimum, image contrast will be reduced and overall image quality will be degraded. For screen-film mammography systems, it is recommended that the HVL not exceed the minimum acceptable HVL by more than 0.1 millimeter of aluminum, as specified in the American College of Radiology; Mammography Quality Control for Medical Physicists, Revised Edition, 1994.

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED RULE(S)

6) Breast entrance air kerma and AEC reproducibility. The coefficient of variation for both air kerma and mAs shall not exceed 0.05.
7) Dosimetry. The average glandular dose delivered during a single craniocaudal view of a phantom simulating a standard breast shall not exceed 3.0 milligray (mGy) (0.3 rad) per exposure. The dose shall be determined with technique factors and conditions used clinically for a standard breast (see Appendix A of this Part).
8) X-ray field/light field/image receptor/compression paddle alignment.
   A) All systems shall have beam-limiting devices that allow the useful x-ray beam to extend to or beyond the edges of the image receptor but by no more than 2 percent of the SID.
   B) If a light field that passes through the x-ray beam limitation device is provided, it shall be aligned with the x-ray field so that the total of any misalignment of the edges of the light field and the x-ray field along either the length or the width of the visually defined field at the plane of the breast support surface shall not exceed 2 percent of the SID.
   C) The chest wall edge of the compression paddle shall not extend beyond the chest wall edge of the image receptor by more than one percent of the SID when tested with the compression paddle placed above the breast support surface at a distance equivalent to standard breast thickness. The shadow of the vertical edge of the compression paddle shall not be visible on the image.
9) Uniformity of screen speed. Uniformity of screen speed of all the cassettes in the facility shall be tested and the difference between the maximum and minimum optical densities shall not exceed 0.30. Screen artifacts shall also be evaluated during this test.
10) System artifacts. System artifacts shall be evaluated with a high-grade, defect-free sheet of homogeneous material large enough to cover the mammography cassette and shall be performed for all cassette sizes used in the facility using a grid appropriate for the cassette size being tested. System artifacts shall also be evaluated for all available focal spot sizes and target filter combinations used clinically.
11) Radiation output.
   A) The system shall be capable of producing a minimum output of 4.5 mGy air kerma per second (513 mR per second) when operating at 28 kVp in the standard mammography (moly/moly) mode at any SID where the system is designed to operate and when measured by a detector with its center located 4.5 cm above the breast support surface with the compression paddle in place between the source and the detector. After October 28, 2002, the system, under the same measuring conditions,

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED RULE(S)

shall be capable of producing a minimum output of 7.0 mGy air kerma per second (800 mR per second) when operating at 28 kVp in the standard (moly/moly) mammography mode at any SID where the system is designed to operate.
   B) The system shall be capable of maintaining the required minimum radiation output averaged over a 3.0 second period.
12) Decompression. If the system is equipped with a provision for automatic decompression after completion of an exposure or interruption of power to the system, the system shall be tested to confirm that it provides:
   A) An override capability to allow maintenance of compression;
   B) A continuous display of the override status; and
   C) A manual emergency compression release that can be activated in the event of power or automatic release failure.

f) Quality control tests-other modalities. For systems with image receptor modalities other than screen-film, the quality assurance program shall be substantially the same as the quality assurance program recommended by the image receptor manufacturer, except that the maximum allowable dose shall not exceed the maximum allowable dose for screen-film systems in subsection (e)(7) of this Section.
g) Mobile Units. The facility shall verify that mammography units used to produce mammograms at more than one location meet the requirements in subsections (a) through (f) of this Section. In addition, at each examination location, before any examinations are conducted, mobile mammography systems shall be tested using the mammography phantom image evaluation, or shall meet the following requirements:
   1) A medical physicist shall establish a protocol for measurement of the radiation output of the mammography system, including the radiation measuring device to be used, procedures for performing the measurement and the anticipated result of the measurement.
   2) Measurements shall be performed using the technique factors that were used for the most recent phantom image evaluation. If a change is made in the technique factors used for the measurements required in this subsection (g)(2), the image quality shall be tested using the mammography phantom image evaluation protocol found in Appendix B of this Part.
      AGENCY NOTE: If the phantom image evaluation is performed using a phototimer, the medical physicist may specify appropriate technique factors that approximate those used by the phototimer for the measurements required in this Section.
   3) After each relocation of a mobile mammography system, measurements of the radiation output of the machine shall be performed according to the protocol established in this Section.
   4) If the radiation output measurement exceeds plus or minus 15 percent of the value established by the medical physicist, the system shall not be used to image human patients until the cause for the variation has been investigated and corrected.
   5) Records of radiation output measurements for mobile mammography

systems shall be maintained at the location of the mammography system for a period of not less than one inspection cycle.
AGENCY NOTE: The Department recommends that mobile mammography systems be tested for image quality after each relocation and prior to use on patients, with mammography phantom image evaluation protocol in Appendix B of this Part.

h) Use of test results.
1) After completion of the tests specified in subsections (a) through (g) of this Section, the facility shall compare the test results to the corresponding specified action limits, or for nonscreen-film modalities, to the manufacturer's recommended action limits, or for post-move, preexamination testing of mobile units, to the limits established in the test method used by the facility.
2) If the test results fall outside of the action limits, the source of the problem shall be identified and corrective actions shall be taken:
A) Before any further examinations are performed or any films are processed using the component of the mammography system that failed the test, if the failed test was that described in subsection (a), (b), (d)(1), (d)(2), (d)(3), (e)(7), (f) or (g) of this Section;
B) Within 30 days after the test date for all other tests described in this Section.

i) Surveys.
1) At least once a year, each facility shall undergo a survey by a medical physicist or by an individual under the direct supervision of a medical physicist. At a minimum, this survey shall include the performance of tests to ensure that the facility meets the quality assurance requirements of the annual tests described in subsections (e) and (f) of this Section and the weekly phantom image quality test described in subsection (b) of this Section.
2) Calibration of air kerma measuring instruments. Instruments used by medical physicists in their annual survey to measure the air kerma or air kerma rate from a mammography unit shall be calibrated at least once every 2 years and each time the instrument is repaired. The instrument calibration shall be traceable to a national standard and calibrated with an accuracy of plus or minus 6 percent (95 percent confidence level) in the mammography energy range.
3) The results of all tests conducted by the facility in accordance with subsections (a) through (g) of this Section, as well as written documentation of any corrective actions taken and their results, shall be evaluated for adequacy by the medical physicist performing the survey.
4) The medical physicist shall prepare a survey report that includes a summary of this review and recommendations for necessary

improvements.
5) The survey report shall be sent to the facility within 30 days after the date of the survey.
6) The survey report shall be dated and signed by the medical physicist performing or supervising the survey. If the survey was performed entirely or in part by another individual under the direct supervision of the medical physicist, that individual and the part of the survey that individual performed shall also be identified in the survey report.

j) Mammography equipment evaluations. Additional evaluations of mammography units or image processors shall be conducted whenever a new unit or processor is installed, a unit or processor is dissembled and reassembled at the same or a new location, or major components of a mammography unit or processor equipment are changed or repaired. These evaluations shall be used to determine whether the new or changed equipment meets the requirements of applicable standards in this Section and Section 370.80 of this Part. All problems shall be corrected before the new or changed equipment is put into service for examinations or film processing. The mammography equipment evaluation shall be performed by a medical physicist or by an individual under the direct supervision of a medical physicist.

Section 370.120 Additional Administrative Requirements

a) *Every operator of a radiation installation at which mammography services are provided shall ensure and have confirmed by each mammography patient that the patient is provided with a pamphlet that is orally reviewed with the patient and that contains the following:*
1) How to perform breast self-examination;
2) That early detection of breast cancer is maximized through a combined approach, using monthly breast self-examination, a thorough physical examination performed by a physician, and mammography performed at recommended intervals;
3) That mammography is the most accurate method for making an early detection of breast cancer, however, no diagnostic tool is 100% effective;
4) If the patient is self-referred and does not have a primary care physician, or if the patient is unfamiliar with the breast examination procedures, that the patient has received information regarding public health services where she can obtain a breast examination and instructions. [420 ILCS 40/5(c)]

b) Facility cleanliness.
1) The facility shall establish and implement adequate protocols for maintaining darkroom, screen and view box cleanliness.
2) The facility shall document that all cleaning procedures are performed at the frequencies specified in the protocols.

c) Infection control. Facilities shall establish and comply with a system specifying procedures to be followed by the facility for

cleaning and disinfecting mammography equipment after contact with blood or other potentially infectious materials. This system shall specify the methods for documenting facility compliance with the infection control procedures established and shall:

1) Comply with the manufacturer's recommended procedures for the cleaning and disinfection of the mammography equipment used in the facility; or
2) If adequate manufacturer's recommendations are not available, comply with generally accepted guidance on infection control, until such recommendations become available.

d) Mammographic procedure and techniques for mammography of patients with breast implants.
1) Each facility shall have a procedure to inquire whether or not the patient has breast implants prior to the actual mammographic exam.
2) Except where contraindicated, or unless modified by a physician's directions, patients with breast implants undergoing mammography shall have mammographic views to maximize the visualization of breast tissue.

e) Consumer complaint mechanism. Each facility shall:
1) Establish a written and documented system for collecting and resolving consumer complaints;
2) Maintain a record of each serious complaint received by the facility for at least 3 years after the date the complaint was received;
3) Provide the consumer with adequate directions for filing serious complaints with the facility's accreditation body if the facility is unable to resolve a serious complaint to the consumer's satisfaction;
4) Report unresolved serious complaints to the accreditation body in a manner and timeframe specified by the accreditation body.

f) Clinical image quality. Clinical images produced by any certified facility shall continue to comply with the standards for clinical image quality established by that facility's accreditation body.

Section 370.130 Mammography Medical Outcomes Audit

Each facility shall establish and maintain a mammography medical outcomes audit program to follow up positive mammographic assessments and to correlate pathology results with the interpreting physician's findings. This program shall be designed to ensure the reliability, clarity and accuracy of the interpretation of mammograms.

a) General requirements. Each facility shall establish a system to collect and review outcome data for all mammograms performed, including followup on the disposition of all positive mammograms and correlation of pathology results with the interpreting physician's mammography report. Analysis of these outcome data shall be made individually and collectively for all interpreting physicians at the facility. In addition, any cases of breast cancer among patients imaged at the facility that subsequently become known to the facility shall prompt the facility to initiate followup on surgical and/or pathology results and review of the mammograms taken prior to the diagnosis of a malignancy.

b) Frequency of audit analysis. The facility's first audit analysis shall be initiated no later than 12 months after the date the facility becomes certified, or 12 months after April 28, 1999, whichever date is the latest. This audit analysis shall be completed within an additional 12 months to permit completion of diagnostic procedures and data collection. Subsequent audit analyses will be conducted at least once every 12 months.

c) Reviewing interpreting physician. Each facility shall designate at least one interpreting physician to review the medical outcomes audit data at least once every 12 months. This individual shall record the dates of the audit period(s) and shall be responsible for analyzing results based on this audit. This individual shall also be responsible for documenting the results, notifying other interpreting physicians of their results and the facility aggregate results. If followup actions are taken, the reviewing interpreting physician shall also be responsible for documenting the nature of the followup.

Section 370.140 Additional Mammography Review and Patient Notification

a) If the Department believes that mammography quality at a facility has been compromised and may present a serious risk to human health, the facility shall provide clinical images and other relevant information, as specified by the Department, for review by the accreditation body. This additional mammography review will help the Department to determine whether the facility is in compliance with this Section and, if not, whether there is a need to notify affected patients, their physicians or the public that the reliability, clarity and accuracy of interpretation of mammograms has been compromised.

b) If the Department determines that any activity related to the provision of mammography at a facility may present a serious risk to human health such that patient notification is necessary, the facility shall notify patients or their designees, their physicians or the public of action that may be taken to minimize the effects of the risk. Such notification shall occur within a timeframe and in a manner specified by the Department.

Section 370.150 Revocation of Accreditation and Revocation of Accreditation Body Approval

If a facility's accreditation is revoked by an accreditation body, the Department may conduct an investigation into the reasons for the revocation. Following such investigation, the Department may act to suspend or revoke the facility's certificate and may take whatever other action or combination of

actions will best protect the public health, including requiring the establishment and implementation of a corrective plan of action that will permit the certificate to continue in effect while the facility seeks reaccreditation. A facility whose certificate is suspended or revoked because it has lost its accreditation may not practice mammography.

Section 370.160 Suspension or Revocation of Certificates

a) Except as provided in subsection (b) of this Section, the Department may suspend or revoke a certificate if the Department finds, after providing the owner or operator of the facility with notice and opportunity for hearing in accordance with 32 Ill. Adm. Code 200, that the owner, operator or any employee of the facility:
   1) Has been guilty of misrepresentation in obtaining the certificate;
   2) Has failed to comply with the standards of Sections 370.70, 370.80, 370.90, 370.100, 370.110, 370.120 and 370.130 of this Part;
   3) Has failed to comply with reasonable requests of the Department or the accreditation body for records, information, reports, or materials that the Department believes are necessary to determine the continued eligibility of the facility for a certificate or continued compliance with the standards of Sections 370.70, 370.80, 370.90, 370.100, 370.110, 370.120, 370.130 and 370.140 of this Part;
   4) Has refused a reasonable request of a duly designated FDA inspector, Department inspector, or accreditation body representative for permission to inspect the facility or the operations and pertinent records of the facility;
   5) Has violated or aided and abetted in the violation of any provision of this Part;
   6) Has failed to comply with prior sanctions imposed by the Department; and
   7) Has failed to pay any required fees.

b) The Department may suspend the certificate of a facility before holding a hearing if the Department determines that:
   1) The failure to comply with required standards presents a serious risk to human health;
   2) The refusal to permit inspection makes immediate suspension necessary; or
   3) There is reason to believe that the violation or aiding and abetting of the violation was intentional or associated with fraud.

c) If the Department suspends a certificate in accordance with subsection (b) of this Section:
   1) The Department shall provide the facility with an opportunity for a hearing under 32 Ill. Adm. Code 200 not later than 30 days after the effective date of the suspension;

   2) The suspension shall remain in effect until the Department determines that:
      A) Allegations of violations or misconduct were not substantiated;
      B) Violations of required standards have been corrected to the Department's satisfaction; or
      C) The facility's certificate is revoked in accordance with subsection (d) of this Section.

d) After providing a hearing in accordance with subsection (c)(1) of this Section, the Department may revoke the facility's certificate if the Department determines that the facility:
   1) Is unwilling or unable to correct violations that were the basis for suspension; or
   2) Has engaged in fraudulent activity to obtain or continue certification.

Section 370.170 Mammography Units Used for Localization or Biopsy Procedures

a) Personnel. The following requirements apply to all personnel involved in localization or biopsy procedures performed with mammography units:
   1) The mammography unit shall be operated by or under the direction of a physician licensed under the Medical Practice Act of 1987 [225 ILCS 60].
   2) Radiologic technologists operating mammography units for localization or biopsy procedures shall meet the general requirements, mammography requirements and continuing education and experience requirements as specified in Section 370.70(b) of this Part.
   3) Medical physicists who perform and provide oversight of quality assurance programs for mammography units used for biopsy procedures shall meet the requirements of Section 370.70(c) of this Part.

b) Equipment. Mammography units used for localization or biopsy procedures shall meet the requirements of Section 370.80 of this Part, except that digital output mammography systems that do not use screen-film image receptors are exempt from the requirements of Section 370.80 of this Part as they relate to screen-film image receptors.

c) Quality assurance. Each facility shall establish and maintain a quality assurance program to ensure the safety, reliability, clarity and accuracy of mammography localization or biopsy procedures performed at the facility.
   1) Each facility shall have the services of a medical physicist available to survey mammography equipment and to oversee the equipment-related quality assurance practices of the facility.
   2) The quality assurance program shall be in writing and shall have been developed by a medical physicist. The program shall include, but need not be limited to, the following:

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED RULE(S)

A) Specifications of the tests that are to be performed, including instructions to be employed in the performance of those tests; and

B) Specifications of the frequency at which tests are to be performed, the acceptable tolerance for each parameter measured and actions to be taken if tolerances are exceeded.

3) The medical physicist shall conduct a review of the quality assurance program each year. Such review shall include evaluation of the results of quality assurance testing.

d) Each facility shall maintain written records of the radiation dose measurements and quality assurance testing performed, as required in this Section, for inspection by the Department for a period of at least one year. Such records shall include, but need not be limited to, the following:

1) The date of the test and identification of the person performing the test;

2) Identification of the type of testing that was performed; and

3) Notation of whether the results of the testing were within the parameters established by the medical physicist.

AGENCY NOTE: The Department recommends that facilities performing interventional mammography seek accreditation through the Stereotactic Breast Biopsy Program of the American College of Radiology.

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED RULE(S)

Section 370.APPENDIX A Mammography Dose Measurement Protocol

The technique factors used for performing a mammography examination shall not permit the mean glandular absorbed dose to exceed the limits specified in Section 370.110(e)(7) of this Part. Radiation measurements shall be performed with an integrating radiation measuring device that is appropriate to the high beam intensity and mammographic kilovoltage peak (kVp) used, and sufficiently sensitive to determine compliance with the criteria specified in Section 370.110(i)(2) of this Part. The instrument shall have been calibrated as specified in Section 370.110(i)(2) of this Part.

The mammography exam dose limits are based on an average compressed breast value of 4.2 centimeters having an average density (i.e., 50 percent adipose and 50 percent glandular).

Perform the following steps to determine the mean glandular dose to a nominal 4.2 centimeter compressed breast:

a) Measure and record the x-ray system's useful beam half-value layer (HVL). (See Section 370.110(e)(5) of this Part.) Any compression device normally in the useful beam during mammography procedures shall be required to be placed between the x-ray tube target and measuring device when determining the HVL. The useful beam shall be collimated to a size encompassing the detector.
AGENCY NOTE: Filters used for the HVL evaluation should be placed as close to the target as practical. The HVL for screen-film mammography should not exceed the minimum acceptable HVL by more than 0.1 millimeter of aluminum equivalent.

b) Determine the glandular dose to entrance exposure factor from the Mammography Dose Evaluation Table (see Table A of this Part) using the appropriate HVL, kVp and x-ray tube target-filter material.
AGENCY NOTE: The kVp of screen-film mammography systems with molybdenum target-filter combinations should be accurately measured to determine the appropriate glandular dose to entrance exposure factor from Table A of this Part.

c) If the equipment has the capability for variable source-image receptor distance, set the craniocaudal source-image receptor distance (SID) for the image receptor system used.

d) Position in the useful beam any compression apparatus normally used.
AGENCY NOTE: Some mammography systems have the capability of providing automatic adjustment of technique factors through feedback from the position of the compression device. On such systems, the compression device should be lowered to a position 4.2 centimeters above the breast support assembly (BSA). The device should then be removed, inverted and replaced to allow placement of the phantom and

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED RULE(S)

measuring device on the BSA below the compression device. If the compression device cannot be replaced in an inverted position, the device should be placed in the beam using auxiliary support.

e) Placement of the Radiation Measuring Device

1) For systems equipped with automatic exposure control (AEC):

A) Place a properly loaded film cassette in the cassette holder.
AGENCY NOTE: The loaded cassette is placed in the cassette holder to simulate, as much as is possible, the conditions under which actual patient exposures are made. Following radiation measurements, the film should be discarded and the cassette reloaded with unexposed film.

B) Place a mammography phantom (see the definition for "Phantom" in Section 370.20 of this Part) on the breast support assembly (BSA). Align the phantom so that the edge of the phantom is aligned with the chest wall side of the BSA and the phantom is over the automatic exposure control device(s).

C) Place a radiation measuring device in the useful beam so the center axis of the device is parallel to the breast support assembly (BSA). The geometric center of the measuring device shall be positioned 4.5 centimeters above the BSA, 2.5 centimeters from the chest wall edge of the BSA and immediately adjacent to either side of the mammography phantom.

2) For systems not equipped with AEC, place a radiation measuring device in the useful beam so that the center axis of the device is parallel to the breast support assembly (BSA). The geometric center of the measuring device shall be positioned so that it is centered 4.5 centimeters above the BSA, 2.5 centimeters from the chest wall edge of the BSA and at the center line of the BSA. No part of the device's detector area shall be outside of the useful beam.

f) Collimate the x-ray field to the size normally used and assure that the area covered by the useful beam includes the detector area of the radiation measuring device and the mammography phantom if the equipment is equipped with automatic exposure.

g) Set the appropriate technique factors or automatic exposure controls normally used for a nominal 4.2 centimeter compressed breast.

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED RULE(S)

h) Measure and record the exposure in air with the radiation measuring device.

i) Calculate the mean glandular dose for a 4.2 centimeter compressed breast by multiplying the measured exposure in millicoulombs per kilogram or in roentgens by the glandular dose to entrance exposure factor, which was determined using the procedure described in subsection (b) of this Section.

EXAMPLE: A mammography system is provided with a molybdenum target-filter combination, and the HVL and kVp are determined to be 0.3 and 30, respectively. Therefore, for a 4.2 centimeter compressed breast, the glandular dose to entrance exposure factor from the Mammography Dose Evaluation Table (Table A of this Part) would be 159 mrad. The measured roentgen output determined in subsection (h) of this Appendix is determined to be 1.8 R. Therefore, the mean glandular dose would be 1.8 R multiplied by 159 mrad/R. This results in a mean glandular dose measurement of 286 mrad. As such, the system would be in compliance with Section 370.110(e)(7) of this Part.

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED RULE(S)

Section 370.APPENDIX B Mammography Phantom Image Evaluation

Mammography phantom image evaluation shall be performed using the procedure below. The evaluation shall be performed weekly as a part of the quality assurance program. The evaluation shall be performed with the mammography phantom specified in Section 370.20 of this Part.

a) Equipment necessary for mammography phantom image evaluation includes a densitometer, the mammography phantom and mammographic cassette and film.

b) Load film in the mammographic cassette according to the manufacturer's instructions.

c) Place the properly loaded cassette in the cassette holder.

d) Place the mammography phantom on the breast support assembly (BSA) so that the edge of the phantom is aligned with the chest wall side of the BSA. Align the phantom so that the masses in the phantom are nearest the chest wall edge of the BSA and the fibers in the phantom are away from the chest wall edge of the BSA. If the mammography machine has the capability of automatic exposure control, place the phantom so that the phantom covers the phototimer sensor.

e) Position the compression device so that it is in contact with the phantom.

f) Select the technique factors used most frequently in the clinical setting for a 4.2 centimeter compressed breast and make an exposure of the phantom.

g) Process the film in the processor used for clinical mammography films.

h) Examine the processed image for areas of non-uniformity of optical density and for the presence of artifacts due to dirt, dust, grid lines or processing.
AGENCY NOTE: If any of the problems noted above are evident on the processed image, the mammography machine film processor and film cassette(s) should be evaluated and the problem corrected. The phantom image evaluation should be repeated after the problem is corrected.

i) Measure and record the optical density of the film near the center of the phantom image. The optical density of the film at the center of the image of the phantom shall be at least 1.20 when exposed under a typical clinical condition.

j) Examine the phantom image and count and record the number of masses

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED RULE(S)

visualized. Repeat this procedure for the speck groups and the fibrils and record the number of objects visualized. There are a total of 16 imaging objects (5 masses, 5 speck groups and 6 fibrils) in the phantom. Evaluation criteria for objects visualized in the phantom image are in Section 370.110(b)(3) of this Part. As a minimum, the objects that must be visualized in the phantom image are:

1) The masses that are 0.75 millimeter or larger (a total of 3 masses);

2) The speck groups that are 0.32 millimeter or larger (a total of 3 speck groups);

3) The fibrils that are 0.75 millimeter or larger (a total of 4 fibrils).
AGENCY NOTE: The phantom image should be compared with previous films, including the original phantom image, to determine if subtle changes are occurring from week to week.

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED RULE(S)

Section 370.TABLE A Mammography Dose Evaluation Table

This Table is used to determine the mean glandular dose in milligrays delivered by 25.8 mC/kg (or millirad) delivered by 1 R in air incident on a 4.2 centimeter thickness compressed breast of average density (50 percent adipose and 50 percent glandular tissue). Values listed are for the first half-value layer (HVL) in millimeters of aluminum (mm Al), for x-ray tube target-filter combinations of molybdenum/molybdenum (Mo/Mo) and tungsten/ aluminum (W/Al). Linear extrapolation or interpolation shall be made for any HVL not listed.

Mean Glandular Dose in milligrays for 25.8 mC/kg (or millirad for 1 R) Entrance Exposure for a 4.2 Centimeter Compressed Breast of Average Density

GRAPHIC MATERIAL
See printed copy of IAC for detail

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED RULE(S)

GRAPHIC MATERIAL
See printed copy of IAC for detail

AGENCY NOTE: Adapted from: Mammography Quality Control Manual: Medical Physicist's Section, Revised Edition, 1994.

DEPARTMENT OF PROFESSIONAL REGULATIONS

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Pharmacy Practice Act of 1987

2) Code Citation: 68 Ill. Adm. Code 1330

3)

Section Numbers:	Adopted Action:
1330.05	Amendment
1330.10	Amendment
1330.20	Amendment
1330.30	Amendment
1330.60	Amendment
1330.80	Amendment
1330.98	New Section

4) Statutory Authority: Pharmacy Practice Act of 1987 [225 ILCS 85]

5) Effective Date of Amendments: December 1, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Do these Amendments contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Date Notice of Proposal Published in Illinois Register: May 8, 1998, at 22 Ill. Reg. 7870

10) Has JCAR issued a Statement of Objections to these amendments? No

11) Difference(s) between proposal and final version:

In Section 1330.05, "computer entry verification" was added to the definition of "Dispense", while the definition of "pharmacist" has been modified to read "'Pharmacist' means an individual licensed as a registered pharmacist or registered assistant pharmacist" and the definition of "registrant" has been modified to read "'Registrant' means a licensed registered pharmacist . . .". Section 1330.98(a) was clarified to indicate that these systems are only to be used in licensed facilities, e.g. hospitals and nursing homes, or State facilities.

Section 1330.98(c)(8) regarding unit doses was amended to address situations where multi-dose containers of medications (e.g., insulin, non-charge acetaminophen, etc) could be stored within the automated systems for security purposes without impacting patient safety. In Section 1330.98(c)(9)(B), "patient's or resident's room and bed number" was deleted and changed to "patient's or resident's unique and permanent identifier such as admissions number or medical records number" to more

DEPARTMENT OF PROFESSIONAL REGULATIONS

NOTICE OF ADOPTED AMENDMENTS

accurately identify patients and to prevent medication errors.

In Section 1330.98(c)(13) concerning incident reporting to the Department, 10 days was changed to 30 days to be consistent with other reporting requirements. Section 1330.98(d)(1)(C), requiring notice to the Department prior to the installation of an automated system, was amended to include a written description of how the facility intends to use the system, while Section 1330.98(d)(2) was changed to state that "Authorization for assigning, discontinuing or changing access to the system" is the responsibility of the pharmacist-in-charge. Also in Section 1330.98(d)(2), "designee" was changed to "a pharmacist designated by the pharmacist-in-charge".

Nonsubstantive changes also were made to conform to style and improve clarity.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these Amendments replace an Emergency Amendment currently in effect? No

14) Are there any Amendments pending on this Part? No

15) Summary and Purpose of Amendments:

Section 22a of the Pharmacy Practice Act of 1987 provides for the Department to establish rules governing the use of automated dispensing and storage systems. Section 1330.98 establishes those rules, setting standards for documentation and recordkeeping for Division I, II, III and V pharmacies that utilize such systems.

This proposed rulemaking also modifies the definitions of "on file" and "dispense", and requires graduates of non-approved programs to pass the Test of Spoken English (TSE). Other technical changes are also made.

16) Information and questions regarding this amended part shall be directed to:

Department of Professional Regulation
Attention: Jean Courtney
320 West Washington, 3rd Floor
Springfield, Illinois 62786
217/785-0813
Fax: 217/782-7645

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATIONS

NOTICE OF ADOPTED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1330
PHARMACY PRACTICE ACT OF 1987

Section
1330.05 Definitions
1330.10 Application for Certificate of Registration as a Pharmacy Technician
1330.20 Approval of Pharmacy Programs
1330.30 Graduates of Programs Not Approved Pursuant to the Provisions of Section 1330.20
1330.40 Application for Examination
1330.50 Examination for Licensure
1330.55 Application for Licensure on the Basis of Examination
1330.60 Endorsement ~~Reciprocity~~
1330.65 Patient Counseling
1330.70 Definitions (Renumbered)
1330.75 Security Requirements
1330.80 Violations
1330.90 Divisions of Pharmacy Licenses
1330.91 Division I Pharmacies
1330.92 Division II Pharmacies
1330.93 Division III Pharmacies
1330.94 Division IV Pharmacies
1330.95 Division V Pharmacies
1330.96 Nonresident Pharmacies
1330.98 Automated Dispensing and Storage Systems
1330.99 Parenteral Product Standards
1330.100 Application for a Pharmacy License
1330.110 Granting Variances
1330.120 Renewals
1330.130 Restoration
1330.140 Continuing Education

AUTHORITY: Implementing the Pharmacy Practice Act of 1987 [225 ILCS 85] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Rules and Regulations Promulgated for the Administration of the Illinois Pharmacy Practice Act, effective August 20, 1975; amended March 8, 1977; amended at 4 Ill. Reg. 1234, effective July 11, 1980; amended at 5 Ill. Reg. 2997, effective March 11, 1981; codified at 5 Ill. Reg. 11049; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 7 Ill. Reg. 6496, effective June 30, 1983; amended at 9 Ill. Reg. 16918, effective October 23, 1985; amended at 10 Ill. Reg. 21913, effective December 17, 1986;

DEPARTMENT OF PROFESSIONAL REGULATIONS

NOTICE OF ADOPTED AMENDMENTS

transferred from Chapter I, 68 Ill. Adm. Code 330 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1330 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2957; amended at 12 Ill. Reg. 17394, effective October 14, 1988; amended at 16 Ill. Reg. 19811, effective December 7, 1992; amended at 21 Ill. Reg. 12600, effective August 29, 1997; amended at 22 Ill. Reg. 21959, effective DEC 1 1998.

Section 1330.05 Definitions

"Act" of 1987 means the Pharmacy Practice Act [225 ILCS 85].

"Authentication of Product History" means, but is not limited to, identifying the purchasing source, the ultimate disposition and any intermediate handling of any component of a radiopharmaceutical, diagnostic agent or device.

"Deliver" means the actual, constructive or attempted transfer of possession of a prescription medication.

"Dispense" means to interpret, verify computer entry of, select the prescribed product for, prepare and/or deliver a prescription medication to an ultimate consumer or to a person authorized to receive the prescription medication by or pursuant to the lawful order of a practitioner, including the compounding, packaging, ~~computer entry~~ and/or labeling necessary for delivery and any recommending, advising and counseling concerning the contents, therapeutic values, uses and any precautions, warnings and/or advice concerning consumption. Dispense does not mean the physical delivery to a patient or a patient's representative in a home or institution by a designee of a pharmacist or by common carrier or the physical delivery of a drug or medical device to a patient or patient's representative by a pharmacist's designee within a pharmacy or drugstore while the pharmacist is on duty and the pharmacy is open.

"Distribute" means to deliver, other than by dispensing, a prescription medication.

"Division I pharmacy" is any pharmacy that engages in general community pharmacy practice and that is open to, or offers pharmacy service to, the general public.

"Division II pharmacy" is any pharmacy whose primary pharmacy service is provided to patients or residents of facilities licensed under the Nursing Home Care Act [210 ILCS 45] or the Hospital Licensing Act [210 ILCS 85], or the University of Illinois Hospital Act [110 ILCS 330] and that is not located in the facility it serves.

DEPARTMENT OF PROFESSIONAL REGULATIONS

NOTICE OF ADOPTED AMENDMENTS

"Division III pharmacy" is any pharmacy that is located in a facility licensed under the Nursing Home Care Act or the Hospital Licensing Act, or the University of Illinois Hospital Act or a facility that is operated by the Department of Human Services ~~Mental--Health--and Developmental--Disabilities~~ or the Department of Corrections, and that provides pharmacy services to residents or patients of the facility, as well as employees, prescribers and students of the facility.

"Division IV pharmacy" is any pharmacy that provides and/or offers for sale radiopharmaceuticals.

"Division V pharmacy" is any pharmacy that holds a license in Division II or Division III that also provides pharmacy services to the general public, or is any pharmacy that is located in or whose primary pharmacy service is to ambulatory care facilities or schools of veterinary medicine or other such institution or facility (e.g., a university infirmary).

"Medication Order" means an order that is issued by a physician for a resident or patient of a facility licensed under the Nursing Home Care Act or the Hospital Licensing Act.

"Nonresident Pharmacy" means a pharmacy that is located outside this State that ships, delivers, dispenses or distributes into Illinois by any means any drugs, medicines, pharmaceutical services or devices requiring a prescription.

"Nuclear Pharmacist" means a pharmacist who provides radiopharmaceutical services and has satisfied the requirements of Section 1330.94(i).

"On File" as used in Section 19 of the Act and this Part means the maintenance at the transferor pharmacy of the transferred prescription, whether previously filled or unfilled. For previously filled prescriptions at a transferor pharmacy located in Illinois, the prescriptions shall be maintained pursuant to the recordkeeping requirements of Section 18 of the Act. For previously unfilled prescriptions at a transferor pharmacy located in Illinois, the prescriptions shall be maintained in a readily retrievable format in a suitable book, file or recordkeeping system for a period of not less than 5 years. For previously filled and unfilled prescriptions at a transferor pharmacy located in a state other than Illinois, the prescriptions shall be maintained pursuant to the recordkeeping requirements of the state.

"Patient counseling" means the communication between a pharmacists or a student pharmacist under the direct supervision of a pharmacist and a patient or the patient's representative about the patient's

DEPARTMENT OF PROFESSIONAL REGULATIONS

NOTICE OF ADOPTED AMENDMENTS

medication or device for the purpose of optimizing proper use of prescription medications or devices. The ~~an~~ offer to counsel shall be made by the pharmacist or the pharmacist's designee, and subsequent patient counseling by the pharmacist or the student pharmacist shall be made in a face-to-face communication with the patient or the patient's representative, unless, in the professional judgment of the pharmacist, a face-to-face communication ~~it~~ is deemed inappropriate or unnecessary. In ~~such~~ that instance, ~~it would be permissible for~~ the offer to counsel or patient counseling may ~~to~~ be made in a written communication, by telephone or in a manner determined by the pharmacist to be appropriate.

"Patient profiles" or "patient drug therapy record" means the obtaining, recording and maintenance of patient prescription and personal information.

"Pharmacist" means an individual who is currently licensed as a registered pharmacist or registered assistant pharmacist.

"Prospective drug review" or "drug utilization evaluation" means ~~a review or~~ the screening for potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including serious interactions with nonprescription or over-the-counter drugs), drug-food interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions and clinical abuse or misuse.

"Radiopharmaceutical" means any substance defined as a drug in Section 3(b) of the Pharmacy Practice Act that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any nonradioactive reagent kit or nuclide generator that is intended to be used in the preparation of any such substance but does not include drugs such as carbon-containing compounds of potassium-containing salts that contain trace quantities of naturally occurring radionuclides. Radio-pharmaceuticals include radioactive biological products as defined in the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq. (1988)) and regulations promulgated thereunder.

"Radiopharmaceutical Quality Assurance" means, but is not limited to, the performance of appropriate chemical, biological, and physical tests on potential radiopharmaceuticals, and the interpretation of the resulting data to determine their suitability for use in humans and animals, including internal test assessment, authentication of product history and the keeping of proper records in these regards.

"Radiopharmaceutical Service" means the compounding, dispensing, labeling and delivery of radiopharmaceuticals; the participation in

DEPARTMENT OF PROFESSIONAL REGULATIONS

NOTICE OF ADOPTED AMENDMENTS

radiopharmaceutical selection and radiopharmaceutical utilization reviews; the proper and safe storage and distribution of radiopharmaceuticals as determined by the Illinois Department of Nuclear Safety; the maintenance of radiopharmaceutical quality assurance; the responsibility for advising, where necessary or required, of diagnostic and therapeutic values, hazards and use of radioactive pharmaceuticals; and the offering or performance of those acts, services, operations or transactions necessary in the conduct, operation, management and control of a Division IV Pharmacy.

"Registrant" means a licensed registered pharmacist, registered assistant pharmacist, or a registered pharmacy technician.

"Student Pharmacist" is a person registered as a pharmacy technician who is enrolled in a pharmacy program and is designated as a a "student pharmacist" pursuant to Section 9 of the Act.

"Ultimate consumer" means the person for whom a drug is intended.

"Unprofessional conduct" under Section 30 of the Act shall include, but not be limited to, any act or practice related to the practice of pharmacy that is wilful, wanton, repeated, or flagrant and likely to result in harm to an individual. In determining what constitutes unprofessional conduct, the Board shall consider, but shall not be limited to, the following standards as they relate to the person who is the subject of the proposed disciplinary action:

Violations set forth in Section 30(a) of the Act;

Repeated commission of an act or acts that are of a flagrant and obvious nature so as to constitute conduct of such a distasteful nature that accepted codes of behavior or codes of ethics are breached;

Repeated commission of an act or acts in a relationship with a patient so as to violate common standards of decency or propriety;

Wilful violation or knowing assistance in the violation of any law relating to the use of habit-forming drugs;

Wilful preparation or signing false statements in order to induce payment for pharmacy services by the Department of Public Aid, or any other local, state or federal department, agency or governmental body, or any private insurance program; and

Violating practice Standards of the American Pharmaceutical Association/American Association of Colleges of Pharmacy

DEPARTMENT OF PROFESSIONAL REGULATIONS

NOTICE OF ADOPTED AMENDMENTS

Standards of Practice for the Profession of Pharmacy, published March 1979, which include no later editions or amendments, and which are herein incorporated by reference, in determining what is unprofessional conduct; however, non-compliance with these professional standards shall not alone be considered an act of unprofessional conduct unless these acts are of a flagrant, glaringly obvious nature constituting a substantial departure from these professional standards.

(Source: Amended at 22 Ill. Reg. 21959, effective DEC 1 1998)

Section 1330.10 Application for Certificate of Registration as a Pharmacy Technician

a) An applicant for a certificate of registration as a pharmacy technician shall file an application on forms supplied by the Department of Professional Regulation (Department) together with:
   1) A copy of high school diploma or its equivalent, or proof of current enrollment in a high school program; and
   2) The fee required by the Pharmacy Practice Act of 1987 (the Act) ~~[255 ILCS 85] (Ill. Rev. Stat 1991, ch. 111, par. 4121 et seq.)~~ pursuant to Section 27(A)(1).

b) Pursuant to Section 9 of the Act, an applicant may assist a registered pharmacist for 60 days upon submission of an application to the Department in accordance with subsection (a) above.

(Source: Amended at 22 Ill. Reg. 21959, effective DEC 1 1998)

Section 1330.20 Approval of Pharmacy Programs

a) The Department shall, upon the recommendation of the State Board of Pharmacy (the Board), approve a pharmacy program in a school or college or department of pharmacy of a university or other institution as reputable and in good standing if it meets the following minimum criteria:
   1) Is legally recognized and authorized, through appropriate agencies such as a ministry of education or higher education governing board, by the jurisdiction in which it is located to confer a first professional degree in pharmacy;
   2) Has a faculty which comprises a sufficient number of full-time instructors to make certain that the educational obligations to the student are fulfilled. Their facility must have demonstrated competence in their area of teaching as evidenced by appropriate degrees from professional colleges or institutions in disciplines reflective of the curricular requirements. (All of the pharmacist members of the clinical faculty and a majority of the

DEPARTMENT OF PROFESSIONAL REGULATIONS

NOTICE OF ADOPTED AMENDMENTS

faculty in the pharmaceutical sciences should be licensed pharmacists in that jurisdiction. The clinical faculty should be active practitioners.);

3) Has a curricular offering of post-secondary instruction totalling at least ~~five-(~~ 5~~)~~ academic years including any preprofessional education requirements, and requiring a minimum of the following subject areas:
   A) General Education (a minimum of 30 semester hours or its equivalent in courses in the humanities and behavioral and social sciences);
   B) Preclinical Sciences (courses in the physical and biological sciences and mathematics which are prerequisites to professional studies and training. Course work should include general chemistry, organic chemistry, general biology, microbiology and mathematics);
   C) Professional Studies and Training (in the following areas):
      i) Biomedical sciences which include anatomy, physiology, immunology, biological chemistry, pathology and biostatistics;
      ii) Pharmaceutical sciences, which include pharmaceutical or medicinal chemistry, pharmaceutics or dosage form design and evaluation, pharmacokinetics, synthetic and natural drug product chemistry, pharmacology, pharmaceutical administration and the social and behavioral sciences in pharmacy;
      iii) Clinical sciences and practice, which include clinically applied courses based on the biomedical and pharmaceutical sciences such as didactic courses in clinical foundations, disease processes and diagnoses, clinical pharmacology and therapeutics and drug information research and literature retrieval; and
      iv) Externship and clerkship: a minimum of 400 direct contact hours in clerkship and externship experience. These experiences should minimally include supervised training in inpatient environments providing for interdisciplinary experiences with other health professionals and including distributive aspects of pharmacy practice;
4) Has essential facilities including, but not limited to, administrative and faculty offices, teaching and research laboratories, lecture rooms, conference rooms, student activities areas and service and other programmatic support areas;
5) Has a comprehensive library which contains a contemporary collection of periodicals, texts and reference books relevant to the biomedical, pharmaceutical and clinical aspects of health care and its systems of delivery;
6) Has clinical facilities adequate in number and quality and with appropriate supervision to deliver the clinical clerkships and externships of the curriculum. Such facilities shall be available in inpatient and outpatient environments, including patient care areas of health care institutions, hospital pharmacies community pharmacies; and
7) Maintains permanent retrievable and auditable student records that summarize the credentials for admission, attendance, grades and other records of performance for each student enrolled in the program.

DEPARTMENT OF PROFESSIONAL REGULATIONS

NOTICE OF ADOPTED AMENDMENTS

b) In determining whether a school or college should be approved, the Department shall take into consideration, but not be bound by, accreditation standards established by the American Council on Pharmaceutical Education.

c) An applicant from a pharmacy program that has not been evaluated shall cause to be forwarded to the Department documentation concerning the criteria in this Section. If the documentation is insufficient to evaluate the program, the applicant will be required to provide such additional information as necessary. Once the Department has received the documentation or after 6 months have elapsed from the date of application, whichever is first, the Board will evaluate the program based on all documentation received from the school and any additional information the Department has received which will enable the Board to evaluate the program based on the criteria specified in this Section. In the event the program is not approved as reputable and in good standing by the Department, applicants from the program must successfully complete the preliminary diagnostic examination and all such other requirements as set forth in the Act and this Part.

d) The Director shall, upon written recommendation submitted by the Board, withdraw, suspend or place on probation the approval of a pharmacy program when the Director determines, based upon the report of the Board, the quality of the program has been materially affected. In determining the existence of a material effect, the Board and the Director shall consider the existence of any of the following causes:
   1) Gross or repeated violations of any provision of the Act;
   2) Gross or repeated violations of any provision of this Part;
   3) Fraud or dishonesty in furnishing documentation for evaluation of the pharmacy program; or
   4) Failure to continue to meet the established criteria for an approved pharmacy program as set out in this Section.

e) When approval of a pharmacy program is being reconsidered by the Department, written notice shall be given at least 15 days prior to any recommendation by the Board, and the officials in charge may either submit written comments or request an interview before the Board.

f) The Department, upon the recommendation of the Board, has determined that all pharmacy programs accredited by the American Council on Pharmaceutical Education as of July 1, 1998 ~~1992~~, meet the minimum criteria set forth in subsection ~~paragraph~~ (a) above and are, therefore, approved. The Board shall review the list of accredited

programs published each year on July 1 by the American Council on Pharmaceutical Education in order to determine whether the programs continue to meet the minimum criteria.

(Source: Amended at 22 Ill. Reg. 21959, effective DEC 1 1998)

Section 1330.30 Graduates of Programs Not Approved Pursuant to the Provisions of Section 1330.20

a) Applicants who are graduates of a first professional degree program in pharmacy of at least 5 academic years that is not approved pursuant to the provisions of Section 1330.20 shall submit proof of:

1) ~~a~~ Passage of the preliminary diagnostic examination (Foreign Pharmacy Graduate Equivalency Exam (FPGEE)) designed to determine equivalence of education to programs approved pursuant to Section 1330.20;

2) ~~b~~ Passage of the Test of English as a Foreign Language (TOEFL) examination with a score of at least 550; ~~and~~

3) Passage of the Test of Spoken English (TSE) examination with a score of 50; and

4) ~~c~~ Completion of a course of clinical instruction approved by the Board as required by Section 6 of the Act. The course of clinical instruction shall be conducted under the supervision of a pharmacist registered in the State of Illinois. The applicant shall obtain prior approval of the Board before enrolling in the course of clinical instruction. In approving a course of clinical instruction, the Board shall consider, but not be limited to, whether the course:

A) ~~1~~ Enhances development of effective communication skills by enabling consultation between the applicant, the prescriber and the patient;

B) ~~2~~ Promotes development of medical data retrieval skills through exposure to patient medical charts, patient medication profiles and other similar sources of patient information;

C) ~~3~~ Promotes development of the applicant's ability to research and analyze drug information literature; and

D) ~~4~~ Promotes development of the applicant's ability to interpret laboratory test and physical examination results.

b) Applicants who are graduates of a first professional degree program in pharmacy that is less than 5 academic years in length may contact an approved school of pharmacy and request that the curriculum be reviewed for qualifying credits. Any course deficiencies may be completed in an approved school of pharmacy in order to receive a first professional degree in pharmacy. Upon receipt of the first professional degree in pharmacy, an individual may apply to sit for the licensure examination.

(Source: Amended at 22 Ill. Reg. ~~21959~~, effective DEC 1 1998)

Section 1330.60 Endorsement ~~Reciprocity~~

a) An applicant who is currently licensed by examination under the laws of another U.S. jurisdiction or another country ~~state~~ shall file an application with the Department, together with:

1) ~~A recent photograph not larger than 2 1/2 by 2 1/2 inches;~~ ~~2~~ Certification of graduation from a ~~an approved~~ 5 year pharmacy program approved pursuant to Section 6 of the Act and Section 1330.20 of this Part;

2) ~~3~~ For individuals licensed in another state prior to January 1, 1983, proof of having completed the hours of apprenticeship; or, if at least 1500 hours of apprenticeship were not required, an affidavit attesting to the period of the applicant's active experience as a pharmacist;

3) ~~4~~ A certification by the state or territory of original licensure, stating:

A) The time during which the applicant was licensed in that state;

B) Whether the file on the applicant contains any record of any disciplinary actions taken or pending;

C) A brief description of the examination and, the applicant's grades; and

~~B) A statement that such state grants similar reciprocity to pharmacists licensed in Illinois; and~~

4) ~~5~~ The fee as required by Section 25 of the Act ~~(Ill. Rev. Stat. 1987, ch. 111, par. 4052.1)~~.

b) The Department and the Board shall examine each ~~reciprocity~~ application to determine whether the requirements, at the time of licensure in the state where the applicant was licensed by examination, were substantially equivalent to the requirements then in force in this State.

c) If the requirements are found to be substantially equivalent, and the applicant graduated from an approved college of pharmacy and meets all other requirements of Section 6 ~~6.4~~ of the Act ~~(Ill. Rev. Stat. 1981, ch. 111, par. 4011)~~, the Department will notify the applicant of approval and/or denial and the reasons therefor within 30 days after ~~of~~ receipt of the application and supporting documentation.

d) If an application is approved, the applicant will be scheduled for and shall be required to attend an orientation session given by the Board which shall cover areas of Illinois law and practice and the disciplinary procedures of the Department.

e) The Department shall, within 30 days after ~~of~~ the completion of the orientation, issue a license by endorsement ~~certificate of registration by reciprocity~~ to the applicant.

DEPARTMENT OF PROFESSIONAL REGULATIONS

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 22 Ill. Reg. 21959, effective DEC 1 1998)

Section 1330.80 Violations

a) A registrant shall not:
1) Permit the dispensing or distributing of a prescription medication to an ultimate consumer unless a registered pharmacist is physically present, on duty and available for consultation.
2) Engage in a professional association, with any place defined as a drug store or pharmacy in the Act, wherein the practice of pharmacy is engaged in by any person who is not authorized to practice under the Act or that is not operated and conducted in compliance with the Act.
3) Compound, sell or offer for sale, or cause to be compounded, sold or offered for sale, any drug, medicine, poison, chemical or pharmaceutical preparation, under or by a name recognized in the United States Pharmacopeia/National Formulary for internal or external use which differs from standard of strength, quality, purity, or bioavailability as determined by the tests specified in the United States Pharmacopeia/National Formulary which is official at the time of such compounding, sale or offering for sale.
4) Compound, sell or offer for sale, or willfully cause to be compounded, sold or offered for sale, any drug, medicine, poison, chemical or pharmaceutical preparation, the strength or purity of which shall fall below the professed standard of strength or purity under which it is sold.
5) Purchase prescription drugs from any source that fails to meet provisions of the Wholesale Drug Distribution Licensing Act [225 ILCS 120] ~~{Ill. Rev. Stat. 1991, ch. 111, pars. 8301 et seq.}~~.

b) No registrant shall violate any of the following laws, or the rules or regulations promulgated pursuant thereto, which relate to the practice of pharmacy:
1) Illinois Food, Drug and Cosmetic Act [410 ILCS 620] ~~{Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 501 et seq.}~~.
2) The Hypodermic Syringes and Needles Act [720 ILCS 635] ~~{Ill. Rev. Stat. 1991, ch. 38, pars. 22-50 et seq.}~~.
3) Federal Food, Drug and Cosmetic Act (21 USC 301 et seq. (1976)).
4) Federal Controlled Substances Act ((21 USC 801 et seq. (1976)).
5) The Illinois Controlled Substances Act [720 ILCS 570] ~~{Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 1101 et seq.}~~.
6) Cannabis Control Act [720 ILCS 550] ~~{Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 701 et seq.}~~.
7) Illinois Poison Prevention Packaging Act [430 ILCS 40] ~~{Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 291 et seq.}~~.
8) Poison Prevention Packaging Act of 1970 ~~{~~15 USC ~~U.S.C.~~ 1471, et seq. (1976)~~)}~~.

DEPARTMENT OF PROFESSIONAL REGULATIONS

NOTICE OF ADOPTED AMENDMENTS

9) Wholesale Drug Distribution Licensing Act [225 ILCS 120] ~~{Ill. Rev. Stat. 1991, ch. 111, pars. 8301 et seq.}~~.

(Source: Amended at 22 Ill. Reg. 21959, effective DEC 1 1998)

Section 1330.98 Automated Dispensing and Storage Systems

a) This Section sets forth standards for Divisions I, II, III and V pharmacies whose practice includes the use of automated dispensing and storage systems. Such systems shall only be used in health care facilities licensed under the Hospital Licensing Act, Nursing Home Care Act, the University of Illinois Hospital Act, or facilities operated by the Illinois Department of Corrections or Department of Human Services. Automated dispensing and storage systems shall not be used in Division IV pharmacies.

b) Definitions
"Automated Dispensing and Storage Systems" include, but are not limited to, mechanical systems that perform operations or activities, other than counting, compounding, or administration, relative to the storage, packaging or dispensing of medications, and that collect, control, and maintain all transaction information.

c) Automated Dispensing and Storage Systems
1) Automated dispensing and storage systems may be utilized in Division I, Division II, Division III and Division V licensed pharmacies.
2) Only persons properly licensed under Illinois laws who have authority to administer medications or persons working under the direct supervision of those individuals shall have access for removal of prescription medications for patient use. Automated dispensing and storage systems shall not be used for direct patient access to prescription medications.
3) Documentation as to type of equipment, serial numbers, content, policies and procedures, and location(s) shall be maintained on-site in the pharmacy for review by the Department. Such documentation shall include, but not be limited to:
A) Name and address of the pharmacy or facility where the automated dispensing and storage system is operational;
B) Manufacturer's name and model;
C) Quality assurance policy and procedures to determine continued appropriate use and performance of the automated device; and
D) Policies and procedures for system operation, safety, security, accuracy, patient confidentiality, access, controlled substances, data retention or archival, definitions, downtime procedures, emergency or first dose procedures, inspection, installation requirements, maintenance, medication security, quality assurance,

medication inventory, staff education and training, system set-up and malfunction.

4) Automated dispensing and storage systems shall be used only in settings that ensure medication orders are reviewed by a pharmacist in accordance with established policies and procedures and good pharmacy practice.

5) Automated dispensing and storage systems shall have adequate security systems and procedures, evidenced by written pharmacy policies and procedures, to:

A) Prevent unauthorized access or use;

B) Comply with any applicable federal and State regulations; and

C) Maintain patient confidentiality.

6) Records and/or electronic data kept by automated dispensing and storage systems shall meet the following requirements:

A) All events involving access to the contents of the automated dispensing and storage systems must be recorded electronically;

B) Records must be maintained by the pharmacy and must be readily available to the Department. Such records shall include:

i) identity of system accessed;

ii) identification of the individual accessing the system;

iii) type of transaction;

iv) name, strength, dosage form and quantity of the drug accessed;

v) name of the patient for whom the drug was ordered;

vi) identification of the registrant(s) stocking or restocking and the pharmacist checking for the accuracy of the medications to be stocked or restocked in the automated dispensing and storage system; and

vii) such additional information as the pharmacist-in-charge may deem necessary.

7) The stocking or restocking of all medications in the automated dispensing and storage systems shall be accomplished by registrants under the Act.

8) All containers of medications stored in the automated dispensing and storage systems shall be packaged as a unit of use for single patient use (e.g., unit dose tab/cap, tube of ointment, inhaler, etc.) and labeled as specified below:

A) Parenteral solutions to which a drug(s) or diluent has been added, or which are not in their original manufacturer's packaging, shall contain the following information on the outer label:

i) Name, concentration and volume of the base parenteral solution;

ii) Name and strength of drug(s) or diluent added;

iii) Date and expiration date of the admixture. The

expiration date, unless otherwise specified in the individual compendia monograph, or beyond use date, shall be no later than the expiration date on the manufacturer's container, one year from the date the drug is repackaged, or current federal (e.g., the Federal Drug Administration Act) or U.S.P. requirements, whichever is earlier; and

iv) Reference code to identify source and lot number of drug(s) or diluent added.

B) Non-parenterals repackaged for future use shall be identified with the following information:

i) Trade and/or generic name;

ii) Strength (if applicable);

iii) Expiration date. Unless otherwise specified in the individual monograph, the expiration date or beyond use date shall be no later than the expiration date on the manufacturer's container, one year from the date the drug is repackaged, or current federal or U.S.P. requirements, whichever is earlier; and

iv) Reference code to identify source and lot number.

C) Exceptions to the "unit of use" requirements in subsections (c)(8)(A) and (B) are as follows:

i) Injectable medications stored in their original multi-dose vial (e.g., insulin, heparin) where the medication may be withdrawn into a syringe or other delivery device for single patient use; or

ii) Over-the-Counter (OTC) products stored in their original multi-dose container (e.g., antacids, analgesics) where the medication may be withdrawn and placed into an appropriate container for single patient use.

9) For medication removed from the system for on-site patient administration, the system must document the following information:

A) Name of the patient or resident;

B) Patient's or resident's unique and permanent identifier, such as admissions number or medical records number;

C) Date and time medication removed from the system;

D) Name, initials, or other unique identifier of the person removing the drug; and

E) Name, strength and dosage form of the drug or description of the medical device removed. The documentation may be on paper, via electronic media or via any other media or mechanisms as set forth by the Act or this Part or as approved by the Department.

10) The automated dispensing and storage systems shall provide a mechanism for securing and accounting for medications once removed from and subsequently returned to the automated

dispensing and storage systems (e.g., return bin). No medication or device shall be returned directly to the system for immediate reissue or reuse by a non-registrant under the Act. Medication or devices once removed shall not be reused or reissued except for:

A) Medical devices which can be properly sanitized prior to reuse or reissue; and

B) Medication that is dispensed and stored under conditions defined and supervised by the pharmacist and are unopened in sealed, intact and unaltered containers that meet the standards for light, moisture and air permeation as defined by the current U.S.P./National Formulary, or by the U.S.P. Conventions, Inc.

11) The automated dispensing and storage systems shall provide a mechanism for securing and accounting for wasted medications or discarded medications.

12) The quality assurance documentation for the use and performance of the automated dispensing and storage systems shall include at least the following:

A) Safety monitors (e.g., wrong medications removed and administered to patient);

B) Accuracy monitors (e.g., filling errors, wrong medications removed); and

C) Security monitors (e.g., unauthorized access, system security breaches, controlled substance audits).

13) Errors in the use or performance of the automated dispensing and storage systems resulting in patient or resident death shall be reported to the Department by the pharmacist-in-charge within 30 days after acquiring knowledge of the incident.

14) Policy and procedures for the use of the automated dispensing and storage systems shall include a requirement for pharmacist review of the prescription or medication order prior to the system profiling and/or removal of any medication from the system for immediate patient administration. This does not apply to the following situations:

A) The system is being used as an after hours cabinet for medication dispensing in the absence of a pharmacist as defined in Section 1330.93(e)(1);

B) The system is being used in place of an emergency kit as defined in Section 1330.93(e)(2);

C) The system is being used to provide access to medication required to treat the immediate needs of a patient as defined in Section 1330.93(e)(3). A sufficient quantity to meet the immediate needs of the patient may be removed until a pharmacist is on duty and available to review the prescription or medication order. A pharmacist shall check such orders promptly once on duty (e.g., floor stock system, emergency department, surgery, ambulatory care or same day surgery, observation unit, etc.).

15) Policies and procedures for the use of the automated dispensing and storage systems shall include the following:

A) List of medications to be stored in each system;

B) List of medications qualifying for emergency or first dose removal without pharmacist prior review of the prescription or medication order; and

C) List of medications qualifying for control purposes.

16) The pharmacist-in-charge shall maintain or have access to all records or documentation specified in this Section for 5 years or as otherwise required by law.

17) A copy of all pharmacy policies and procedures related to the use of an automated dispensing and storage system shall be maintained at all locations where the system is being used.

d) Duties and Responsibilities of the Pharmacist-in-Charge

1) The pharmacist-in-charge shall be responsible for:

A) Assuring that the automated dispensing and storage system is in good working order and accurately provides the correct strength, dosage form and quantity of the drug prescribed while maintaining appropriate recordkeeping and security safeguards;

B) Establishment of a quality assurance program prior to implementation of an automated dispensing and storage system and the supervision of an ongoing quality assurance program that monitors appropriate use and performance of the automated dispensing and storage system, which is evidenced by written policies and procedures developed by the pharmacy;

C) Providing the Department with written notice 30 days prior to the installation of or at the time of removal of an automated storage and dispensing system. Such notice must include, but is not limited to:

i) the name and address of the pharmacy;

ii) the address of the location of the automated dispensing and storage system, if different from the address of the pharmacy;

iii) the automated dispensing and storage system's manufacturer and model;

iv) the pharmacist-in-charge; and

v) a written description of how the facility intends to use the automated storage and dispensing system;

D) Determining and monitoring access to and the limits on access (e.g., security levels) to the automated storage and dispensing system. Such access shall be defined by policies and procedures of the pharmacy and shall comply with State and federal regulations.

2) Additional responsibilities of the pharmacist-in-charge or pharmacist designated by the pharmacist-in-charge shall include:

DEPARTMENT OF PROFESSIONAL REGULATIONS

NOTICE OF ADOPTED AMENDMENTS

A) Authorizing the assigning of access to, discontinuing access to, or changing access to, the system;
B) Ensuring that access to the medications complies with State and federal regulations as applicable; and
C) Ensuring that the automated dispensing and storage system is stocked/restocked accurately and in accordance with established, written pharmacy polices and procedures.

(Source: Added at 22 Ill. Reg. 21959, effective DEC 1 1998)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT(S)

1) Heading of the Part: Illinois Speech-Language Pathology and Audiology Practice Act

2) Code Citation: 68 Ill. Adm. Code 1465

3)

Section Numbers:	Adopted Action:
1465.20	Amendment
1465.35	Amendment
1465.36	Amendment
1465.40	Amendment
1465.60	Amendment
1465.70	Amendment
1465.80	Amendment
1465.85	New Section
1465.95	New Section

4) Statutory Authority: Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]

5) Effective Date of Amendments: December 1, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Do these Amendments contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and available for public inspection.

9) Date Notice of Proposal Published in Illinois Register: July 31, 1998, at 22 Ill. Reg. 14223

10) Has JCAR issued a Statement of Objections to these amendments? No

11) Difference(s) between proposal and final version:

In Section 20, school settings were added to the acceptable settings for the clinical practicums, while in Section 35 a), "direct supervision" was modified from "in the room" to "in view".

In Section 1465.85, all continuing education (CE) hours earned between November 1, 1997 and October 31, 1999 will be accepted, providing the CE sponsor was approved prior to October 31, 1999. The Illinois Academy of Audiology was added to the list of approved CE sponsors.

In numerous sections, certification in audiology by the American Board of Audiology has been added as an acceptable alternative to certification by the American Speech- Language-Hearing Association (ASHA). In addition,

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT(S)

various technical changes or corrections were made.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these Amendments replace Emergency Amendments currently in effect? No

14) Are there any Amendments pending on this Part? No

15) Summary and Purpose of Amendments: This rulemaking will bring rules for the licensure of speech-language pathologists and audiologists into conformity with Public Act 90-0069, the reauthorization of the Illinois Speech-Language Pathology and Audiology Practice Act, effective July 8, 1997. Licensees will be required to complete 10 hours of continuing education for the October 31, 1999 renewal and 20 hours of continuing education for every renewal thereafter.

This rulemaking provides for sponsor approval for individuals and entities wanting to provide continuing education and also sets forth the provisions by which licensees may obtain continuing education. Professional Conduct Standards have been set forth in these rules. For approved programs, the clinical practicum is increased from 300 to 350 hours, and the requirements for supervision are revised.

16) Information and questions regarding this amended part shall be directed to:

Department of Professional Regulation
Attention: Jean Courtney
320 West Washington, 3rd Floor
Springfield, Illinois 62786
217/785-0813 Fax #: 217/782-7645

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT(S)

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1465
THE ILLINOIS SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY PRACTICE ACT

Section
1465.10 Application for Licensure Under Section 7 of the Act (Repealed)
1465.20 Approved Programs
1465.30 Professional Experience
1465.35 Supervision
1465.36 Evaluation and Management Related to Speech-Language Pathology and Audiology
1465.40 Application for Licensure
1465.50 Examination
1465.60 Endorsement
1465.70 Renewal
1465.75 Fees
1465.80 Restoration
1465.85 Continuing Education
1465.90 Granting Variances
1465.95 Professional Conduct Standards

AUTHORITY: Implementing the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Emergency rules adopted at 13 Ill. Reg. 1616, effective January 20, 1989, for a maximum of 150 days; emergency expired June 19, 1989; adopted at 13 Ill. Reg. 13882, effective August 22, 1989; amended at 18 Ill. Reg. 12794, effective August 4, 1994; amended at 19 Ill. Reg. 11477, effective July 28, 1995; emergency amendment at 21 Ill. Reg. 11785, effective August 7, 1997, for a maximum of 150 days; emergency expired January 3, 1998; amended at 22 Ill. Reg. 3879, effective February 5, 1998; amended at 22 Ill. Reg. 21978, effective DEC 1 1998.

Section 1465.20 Approved Programs

a) The Department of Professional Regulation (the Department) shall approve a speech-language pathology or audiology program if it meets the following minimum criteria:
   1) The institution is legally recognized and authorized by the jurisdiction in which it is located to confer the appropriate degree.
   2) The institution has a faculty that consists of a sufficient number of full-time instructors to ensure educational obligations to the student are fulfilled. The faculty must have demonstrated

competence as evidenced by appropriate degrees in their area(s) of teaching from professional colleges or institutions.

3) The program director must be trained in speech-language pathology, in audiology or in speech and hearing science.

4) The institution has an integrated curriculum plan that includes at least the following subject areas in professional education (60 semester hours required):

A) Basic Communication Processes

i) Anatomic and physiological bases

ii) Physical bases and processes of the production and perception of speech, language and hearing

iii) Linguistic and psycholinguistic variables related to normal development and use of speech, language and hearing

B) Speech-Language Pathology/Audiology

i) Speech and language disorders

ii) Audiology

iii) Auditory pathology

iv) Auditory habilitation/rehabilitation

5) The institution has a clinical practicum that provides students with 350 ~~300~~ hours of clinical experience supervised by a licensed speech-language pathologist or audiologist or a person who is ASHA certified or certified in audiology by the American Board of Audiology. The experience shall take place in at least 2 clinical settings (i.e., academic program, school setting, medical facility, community clinics).

b) In determining whether a program should be approved, the Department shall take into consideration, but not be bound by, accreditation or approval by the American Speech-Language-Hearing Association.

c) The Department has determined that all speech-language pathology and audiology master's degree programs accredited or approved by the Educational Standards Board of the American Speech-Language-Hearing Association as of January 1, 1994, meet the minimum criteria set forth in this Section and are, therefore, approved.

(Source: Amended at 22 Ill. Reg. 21978 effective DEC 1 1998)

Section 1465.35 Supervision

a) Pursuant to Section 3.5(a) ~~12(a)~~ of the Act, supervision of students means that the supervisor is on-site (but not necessarily in the same room as the student) whenever the student is performing practices normally done by a licensed speech-language pathologist or audiologist. Supervision of students requires that direct supervision must be done no less than 25% of the time for treatment and 50% of the time for diagnostics. The supervisor is directly responsible to the client for all actions of that student. For purposes of this Part,

direct supervision means on site, in view of the supervisor ~~present in the room~~.

b) Supervision requirements will vary depending on the qualifications of an appropriately trained person pursuant to Section 3.5(b) ~~12(b)~~ of the Act.

1) If a person has completed the academic and practicum work for a master's degree in speech-language pathology or audiology (regardless of whether the individual is in the process of completing 9 months of supervised professional experience or whether the individual has finished that experience and is waiting for his/her application for licensure to be processed), the supervision shall meet the requirements set forth in Section 1465.30(d).

2) If a person has completed a training course other than that culminating in a master's degree and if that individual is not exempt pursuant to Section 3.5 ~~12~~(a), (c), (d) or (e):

A) Evaluation services as defined in Section 1465.36 shall not be performed except that screening for purposes of identification may be performed by appropriately trained persons. Screening for purposes of this Section means a pass/refer procedure to identify individuals who require further audiologic or speech-language assessment;

B) Management services, as defined in Section 1465.36, must be supervised as follows:

i) The treatment plan shall be developed by the supervisor;

ii) During the first 90 workdays of providing treatment services, at least 30% of the patient/client contact ~~The first 5 to 10 sessions that constitute a minimum of 10 hours of treatment for each client~~ shall be directly supervised by the licensed speech-language pathologist or audiologist;

iii) Subsequent to the first 90 workdays ~~10 hours~~, at least ~~1 of every 4 sessions~~ 20% of the patient/client contact shall be under direct supervision by the licensed speech-language pathologist or audiologist; and

iv) Documentation shall be generated by the supervisor to verify the work of the supervisee. Copies of the ~~A~~ report shall ~~will~~ be kept by the supervisor and the supervisee.

(Source: Amended at 22 Ill. Reg. 21978, effective DEC 1 1998)

Section 1465.36 Evaluation and Management Related to Speech-Language Pathology and Audiology

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT(S)

For purposes of this Part, evaluation and management related to the practice of speech-language pathology and audiology shall be defined as follows:

a) Speech-Language Pathology
   1) Evaluation under speech-language pathology means the application of nonmedical methods and procedures for the identification, measurement, testing and appraisal of communication development, disorders or disabilities of speech, language, voice, swallowing and other speech, language and voice related disorders.
   2) Management under speech-language pathology means habilitation, rehabilitation, counseling, consulting, directing or conducting programs that are designed to modify disorders related to communication development, and disorders or disabilities of speech, language, voice or swallowing. This may also include training in the use of augmentative communication systems, communication variation, cognitive rehabilitation, nonspoken language production and comprehension.

b) Audiology
   1) Evaluation under audiology means the application of nonmedical methods and procedures for the identification, measurement, testing and appraisal of hearing or vestibular function.
   2) Management under audiology means habilitation, rehabilitation, counseling, consulting, directing or conducting of programs that are designed to modify disorders related to hearing loss or vestibular malfunction. This includes training in the use of amplification, including dispensing of hearing aids. This also includes removal of cerumen for the purpose of performing evaluation or management procedures.

(Source: Amended at 22 Ill. Reg. 21978, effective DEC 1 1998)

Section 1465.40 Application for Licensure

a) Each applicant for a speech-language pathology or audiology license shall file an application with the Department, on forms provided by the Department. The application shall include:
   1)~~a~~ Certification, on forms provided by the Department, of a master's degree from a program approved by the Department in accordance with Section 1465.20;
   2)~~b~~ Passage of the National Examinations in Speech-Language Pathology and/or Audiology (NESPA) set forth in Section 1465.50 or certification from the American Speech-Language-Hearing Association or from the American Board of Audiology pursuant to Section 8(e) of the Act. Exam scores shall be submitted directly to the Department from the testing service;
   3)~~c~~ Certification, on forms provided by the Department, of completion of the equivalent of 9 months of full-time supervised professional experience as set forth in Section 1465.30 of this Part;
   4)~~d~~ A complete work history since completion of a master's ~~baccalaureate~~ degree program; and
   5)~~e~~ The required fee as set forth in Section 1465.75(a) of this Part ~~Section 14(a)(1) of the Act~~.

b) The Department, upon recommendation of the Board, will accept a Certificate of Clinical Competence in Speech-Language Pathology or Audiology awarded by the American Speech-Language-Hearing Association's Clinical Certification Board or certification in audiology from the American Board of Audiology, in lieu of the documents required in subections (a)(2) and (3) above.

(Source: Amended at 22 Ill. Reg. 21978, effective DEC 1 1998)

Section 1465.60 Endorsement

a) An applicant for a license as a speech-language pathologist or audiologist who is licensed under the laws of another state or territory of the United States shall file an application with the Department, on forms provided by the Department, which includes:
   1) Certification, on forms provided by the Department, of a master's degree from a program approved by the Department in accordance with Section 1465.20;
   2) Certification, on forms provided by the Department, of completion of the equivalent to 9 months of full-time supervised professional experience as set forth in Section 1465.30 of this Part;
   3) Proof of successful completion of the examination set forth in Section 1465.50 of this Part;
   4) The Department, upon recommendation of the Board, will accept a Certificate of Clinical Competence in Speech-Language Pathology or Audiology awarded by the American Speech-Language-Hearing Association's Clinical Certification Board or certification in audiology from the American Board of Audiology, in lieu of the documents required in subsections (a)(2) and (3) above; ~~In lieu of the certifications required in subsections (1), (2) and (3) above, the applicant may submit verification of holding current certification from the American Speech-Language-Hearing Association that the person is a certified speech-language pathologist or audiologist;~~
   5) Certification, on forms provided by the Department, from the state or territory of the United States in which the applicant was originally licensed and any state in which the applicant is currently licensed, stating:
      A) The time during which the applicant was licensed; and
      B) Whether the file of the applicant contains any record of any disciplinary actions taken or pending; ~~and~~

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT(S)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT(S)

~~e) Examination(s) taken and examination score(s) received;~~

6) A complete work history since completion of a master's ~~baccalaureate~~ degree program; and

7) The required fee as set forth in Section 1465.75(a) of this Part ~~14(a)(2) of the Act~~.

b) The Department may require additional information to determine if the requirements in the state or territory of original licensure were substantially equivalent to the requirements then in effect in Illinois at the time of original licensure or to determine whether the requirements of another state or territory together with education and professional experience qualifications of the applicant are substantially equivalent to the requirements in Illinois at the time of application. The Department, upon recommendation of the Board, shall determine substantial equivalency based on, but not limited to, certification from the American Speech-Language-Hearing Association or certification in audiology from the American Board of Audiology; education, training, and experience, including, but not limited to, whether he/she has achieved special honors or awards, has had articles published in professional journals, has written textbooks relating to speech-language-hearing; and any other attribute which the Director accepts as evidence that such applicant has outstanding and proven ability in speech-language-hearing. The Department shall either issue a license by endorsement to the applicant or notify him/her of the reasons for the denial of the application.

(Source: Amended at 22 Ill. Reg. 21978, effective DEC 1 1998)

Section 1465.70 Renewal

a) Every license issued under the Act shall expire on October 31 of odd numbered years. The holder of a license may renew such license during the month preceding the expiration date by paying the required fee. For the October 31, 1999 renewal, in order to renew a license, a licensee will be required to complete 10 hours of continuing education in accordance with Section 1465.85. For every renewal thereafter, in order to renew a license, a licensee will be required to complete 20 hours of continuing education in accordance with Section 1465.85.

b) It is the responsibility of each licensee to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to pay the renewal fee or to renew one's license.

(Source: Amended at 22 Ill. Reg. 21978, effective DEC 1 1998)

Section 1465.80 Restoration

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT(S)

a) A person seeking restoration of a license that has expired for 5 years or less shall have the license restored upon payment of the fees pursuant to Section 1465.75 of this Part ~~14(a)(4)(i) of the Act~~. After October 31, 1999, in order to restore a license, a licensee will be required to complete 20 hours of continuing education in accordance with Section 1465.85.

b) A person seeking restoration of a license that has been placed on inactive status for 5 years or less shall have the license restored upon payment of the fee pursuant to Section 1465.75 of this Part ~~14(a)(4)(ii) of the Act~~. After October 31, 1999, in order to restore a license, a licensee will be required to complete 20 hours of continuing education in accordance with Section 1465.85.

c) A person seeking restoration of a license after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the Department, together with the fee required by Section 1465.75 of this Part ~~14(a)(4) of the Act~~ and be scheduled for an interview before the Board. After October 31, 1999, in order to restore a license, a licensee will be required to complete 20 hours of continuing education in accordance with Section 1465.85. The person shall also submit either:

1) Sworn evidence of active practice in another United States jurisdiction. Such evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the registrant was authorized to practice during the term of said active practice; or

2) An affidavit attesting to military service as provided in Section 11(f) of the Act; or

3) Proof of successful completion of the NESPA examination in accordance with Section 1465.50 of this Part within one year prior to ~~of~~ application for restoration.

d) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department because of lack of information, discrepancies or conflicts in information given or a need for clarification, the person seeking restoration of a license shall be required to:

1) Provide such information as may be necessary; and/or

2) Appear for an interview before the Board to explain such revelance or sufficiency, clarify information or clear up any discrepancies or conflicts in information. Upon recommendation of the Board and approval by the Department, an applicant shall have the license restored.

(Source: Amended at 22 Ill. Reg. 21978, effective DEC 1 1998)

Section 1465.85 Continuing Education

a) Continuing Education Hours Requirements

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT(S)

1) For the October 31, 1999 renewal, a licensee will be required to complete 10 hours of continuing education. (Continuing education hours taken from November 1, 1997 to October 31, 1999, from a sponsor approved by the Department in accordance with this Section, may be utilized to fulfill the 10 hours of continuing education.) After October 31, 1999, in order to renew a license, a licensee will be required to complete 20 hours of continuing education in accordance with this Section.

2) A prerenewal period is the 24 months preceding October 31 of each odd-numbered year.

3) CE requirements shall be the same for licensed speech-language pathologists and licensed audiologists. Individuals who hold a license as a speech pathologist and as an audiologist will be required to complete 20 hours of continuing education for each license held (10 hours for each license for the October 31, 1999 renewal). An audiologist who has met the continuing education requirements of the Hearing Instrument Consumer Protection Act during the prerenewal period shall be deemed to have met the continuing education requirements for renewal of the audiologist license.

4) One CE hour shall equal one clock hour of attendance. After completion of the initial CE hour, credit may be given in one-half hour increments.

5) A renewal applicant shall not be required to comply with CE requirements for the first renewal of an Illinois license.

6) Speech-language pathologists and audiologists licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section.

7) Continuing education credit hours used to satisfy the CE requirements of another jurisdiction may be applied to fulfill the CE requirements of the State of Illinois.

b) Approved Continuing Education (CE)

1) CE hours shall be earned by verified attendance (e.g., certificate of attendance or certificate of completion) at, or participation in, a program or course ("program") that is offered or sponsored by an approved continuing education sponsor who meets the requirements set forth in subsection (c) below, except for those activities provided in subsections (b)(2), (3) and (4) below.

2) CE credits may be earned for completion of a correspondence course that is offered by an approved sponsor who meets the requirements set forth in subsection (c) below. Each correspondence course shall include an examination.

3) CE credit may be earned through postgraduate training programs in speech-language pathology or audiology (e.g., extern, residency or fellowship programs) or completion of speech-language pathology or audiology related courses that are a part of the curriculum of a college, university or graduate school. Courses

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT(S)

that are part of the curriculum of a university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded.

4) CE credit may be earned for authoring papers, publications, dissertations or books and for preparing presentations and exhibits in the field of speech-language pathology and audiology. The preparation of each published paper, book chapter or professional presentation dealing with speech-language pathology or audiology may be claimed for a maximum of 5 hours of CE credit. A presentation must be before an audience of speech-language pathologists, audiologists or related professionals. Five credit hours may be claimed for only the first time the information is published or presented.

c) Approved CE Sponsors and Programs

1) Sponsor, as used in this Section, shall mean:

A) American Speech-Language-Hearing Association and its affiliates;

B) American Academy of Audiology and its affiliates;

C) Illinois Speech-Language-Hearing Association and its affiliates.

D) Illinois Academy of Audiology and its affiliates;

E) Any other accredited school, college or university, State agency, or any other person, firm, or association that has been approved and authorized by the Department in accordance with subsection (c)(2) below to coordinate and present continuing education courses and programs in conjunction with this Section.

2) An entity, not listed in subsection (c)(1)(A), (B) or (C) above, seeking approval as a CE sponsor shall submit an application, on forms supplied by the Department, along with a $500 application fee. (State agencies, State colleges and State universities in Illinois shall be exempt from paying this fee.) The application shall include:

A) Certification:

i) That all programs offered by the sponsor for CE credit shall comply with the criteria in subsection (c)(3) below and all other criteria in this Section;

ii) That the sponsor shall be responsible for verifying full-time continuous attendance at each program and shall provide a certificate of attendance as set forth in subsection (c)(9) below;

iii) That, upon request by the Department, the sponsor shall submit evidence (e.g., certificate of attendance or course material) as is necessary to establish compliance with this Section. Evidence shall be required when the Department has reason to believe that there is not full compliance with the

statute and this Part and that this information is necessary to ensure compliance;

iv) That each sponsor shall submit to the Department written notice of program offerings, including program offerings of subcontractors, 30 days prior to course dates. Notice shall include the description, location, date and time of the program to be offered;

B) A copy of a sample program with faculty, course materials and syllabi.

3) All programs shall:

A) Contribute to the advancement, extension and enhancement of the professional skills and scientific knowledge of the licensee in the practice of speech-language pathology or audiology;

B) Foster the enhancement of general or specialized speech-language pathology or audiology practice and values;

C) Be developed and presented by persons with education and/or experience in the subject matter of the program;

D) Specify the course objectives, course content and teaching methods to be used; and

E) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal.

4) Each CE program shall provide a mechanism for evaluation of the program and instructor by the participants. The evaluation may be completed on-site immediately following the program presentation or an evaluation questionnaire may be distributed to participants to be completed and returned by mail. The sponsor and the instructor, together, shall review the evaluation outcome and revise subsequent programs accordingly.

5) An approved sponsor may subcontract with individuals and organizations to provide approved programs. All advertising, promotional materials, and certificates of attendance must identify the approved sponsor. The presenter of the program may also be identified, but should be identified as a presenter. When an approved sponsor subcontracts with a presenter, the approved sponsor retains all responsibility for monitoring attendance, providing certificates of attendance and ensuring the program meets all of the criteria established by the Act and this Part, including the maintenance of records.

6) All programs given by approved sponsors shall be open to all licensed speech-language pathologists and licensed audiologists and not be limited to members of a single organization or group.

7) To maintain approval as a sponsor, each shall submit to the Department by October 31 of each odd-numbered year a renewal application, a $250 fee and a list of courses and programs offered within the last 24 months. The list shall include a brief description, location, date and time of each course given by the sponsor and by any subcontractor.

8) Certification of Attendance. It shall be the responsibility of a sponsor to provide each participant in a program with a certificate of attendance or participation. The sponsor's certificate of attendance shall contain:

A) The name, address and license number, if applicable, of the sponsor;

B) The name and address of the participant;

C) A brief statement of the subject matter;

D) The number of hours attended in each program;

E) The date and place of the program; and

F) The signature of the sponsor.

9) The sponsor shall maintain attendance records for not less than 5 years.

10) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.

11) Upon the failure of a sponsor to comply with any of the foregoing requirements, the Department, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE credit attendance at or participation in any of that sponsor's CE programs until such time as the Department receives assurances of compliance with this Section.

12) Notwithstanding any other provision of this Section, the Department or Board may evaluate any sponsor of any approved CE program at any time to ensure compliance with requirements of this Section.

d) Certification of Compliance with CE Requirements

1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in subsections (a) and (b) above.

2) The Department may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of attendance). This additional evidence shall be required in the context of the Department's random audit. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance.

3) When there appears to be a lack of compliance with CE requirements, an applicant shall be notified in writing and may request an interview with the Board. At that time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].

e) Continuing Education Earned in Other Jurisdictions

1) If a licensee has earned CE hours offered in another jurisdiction not given by an approved sponsor for which the licensee will be claiming credit toward full compliance in Illinois, the applicant shall submit an individual program approval request form, along

with a $25 processing fee, prior to participation in the program or 90 days prior to expiration of the license. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.

2) If a licensee fails to submit an out of state CE approval form within the required time frame, late approval may be obtained by submitting the approval request form with the $25 processing fee plus a $10 per hour late fee not to exceed $150. The Board shall review and recommend approval and disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.

f) Restoration of Nonrenewed License. Upon satisfactory evidence of compliance with CE requirements, the Department shall restore the license upon payment of the required fee as provided in Section 1465.75 of this Part.

g) Waiver of CE Requirements

1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Department a renewal application along with the required fee set forth in Section 1465.75 of this Part, a statement setting forth the facts concerning non-compliance and request for waiver of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the Department, upon the written recommendation of the Board, finds from such affidavit or any other evidence submitted that extreme hardship has been shown for granting a waiver, the Department shall waive enforcement of CE requirements for the renewal period for which the applicant has applied.

2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:

A) Full-time service in the armed forces of the United States of America during a substantial part of the prerenewal period;

B) An incapacitating illness documented by a statement from a currently licensed physician;

C) Any other similar extenuating circumstances.

3) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section, shall be deemed to be in good standing until the final decision on the application is made by the Department.

(Source: Added at 22 Ill. Reg. 21978, effective DEC 1 1998)

Section 1465.95 Professional Conduct Standards

The Department may suspend or revoke a license, refuse to issue or renew a license or take other disciplinary action based upon its finding of "unethical, unauthorized, or unprofessional conduct" within the meaning of Section 16 of the Act, which is interpreted to include, but is not limited to, the following acts or practices:

a) Practicing, condoning, facilitating, or otherwise being involved in, any form of discrimination. The licensee should act to prevent and eliminate discrimination against any person or group on the basis of race, color, sex, sexual orientation, age, religion, national origin, marital status, political belief, mental or physical handicap, or any other preference or personal characteristic, condition or status;

b) Engaging in any action that violates or diminishes the civil or legal rights of clients;

c) Engaging in the sexual exploitation of clients, students or supervisees;

d) Engaging in or condoning sexual harassment, which is defined as deliberate or repeated comments, gestures or physical contacts of a sexual nature;

e) Failing to offer all pertinent facts regarding services rendered to the client prior to administration of professional services. The purpose of informed consent is to insure a client's complete access to information pertaining to professional services. Examples include, but are not limited to, fees for services, length of treatment and utilization of consultants. The client's signature indicating receipt of pertinent information is strongly encouraged;

f) Failing to take appropriate steps to protect the privacy of a client and avoid unnecessary disclosures of confidential information;

g) Performing, or pretending to be able to perform, professional services beyond one's scope of practice and one's competency;

h) Failing to inform clients of the use of all experimental methods of treatment; safety precautions shall be adhered to by the licensee;

i) Failing to establish and maintain client records;

j) Deceptive, misleading or false advertising. Licensees should claim or imply only professional credentials possessed and are responsible for correcting any misrepresentations of their credentials by others. Professional credentials include highest relevant degrees, accreditation of graduate programs, national voluntary certifications, government-issued certifications or licenses, professional membership, or any other credential that might indicate to the public specialized knowledge or expertise in speech-language pathology or audiology;

k) Submission of fraudulent claims for services to any person or entity including, but not limited to, health insurance companies or health service plans or third party payors;

l) Knowingly providing services to a client when the licensee's ability to practice is impaired. Causes of impairment may include, but are not limited to, the abuse of mood altering chemicals and physical or mental problems;

m) Permitting a student or supervisee under his/her supervision or

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT(S)

control to perform, or permitting the student or supervisee to hold himself or herself out as competent to perform, professional services beyond the trainee's or intern's level or education, training and/or experience;

n) Allowing the student or supervisee to violate the rights of clients, permitting a trainee to violate confidentiality standards or failing to ensure that the client is informed that he/she is being treated by a student or supervisee;

o) Failing to inform prospective research subjects or their authorized representative fully of potential serious after effects of the research or failing to remove the after effects as soon as the design of the research permits;

p) The Department hereby incorporates by reference "Code of Ethics, 1995" of the American Speech-Language-Hearing Association, January 1, 1994, approved by the American Speech-Language-Hearing Association, 10801 Rockville Pike, Maryland 20852, and the "Code of Ethics" of the American Academy of Audiology, 8201 Greensboro Drive, Suite 300, McLean, Virginia 22102, with no later amendments or editions.

(Source: Added at 22 Ill. Reg. 21978, effective DEC 1 1998)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: HIV/AIDS Confidentiality and Testing Code

2) Code Citation: 77 Ill. Adm. Code 697

3)

Section Numbers:	Adopted Action:
697.10	Amendment
697.20	Amendment
697.30	Amendment
697.120	Amendment
697.140	Amendment
697.200	Amendment
697.210	Amendment
697.220	Amendment
697.300	Amendment
697.400	Amendment
697.420	Amendment
697.Appendix A, Illustration A	Amendment
697.Appendix B	Amendment

4) Statutory Authority: Implementing and authorized by the AIDS Confidentiality Act [410 ILCS 305]; AIDS Registry Act [410 ILCS 310]; the Communicable Disease Prevention Act [410 ILCS 315], and Sections 55, 55.11, 55.41 and 55.45 of the Civil Administrative Code of Illinois [20 ILCS 2310/55, 55.11, 55.41 and 55.45].

5) Effective Date of Rules: December 5, 1998

6) Does this Rulemaking Contain an Automatic Repeal Date? No

7) Does this Rulemaking Contain Incorporations by Reference? Yes

8) A statement that a copy of the adopted amendments, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection:

9) Date Notice of Proposed Rulemaking was Published in the Illinois Register: February 27, 1998 - 22 Ill. Reg.4277

10) Has the Joint Committee on Administrative Rules Issued a Statement of Objection to this Rulemaking: No

11) Difference Between Proposal and Final Version:

In Section 697.20 and 697.30, the definition of "AIDS" and incorporations by reference were updated to reflect the "1993 Revised Classification System for HIV Infection and Expanded Surveillance Case Definition for AIDS Among Adolescents and Adults", the "1994 Revised Classification System for HIV Infection for Children Than 13 Years of Age", and the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"Pediatric AIDS Confidential Case Report", all published by the Centers for Disease Control and Prevention (CDC).

In Section 697.140(a)(4), the following statutory language from Section 9(d) of the AIDS Confidentiality Act was added to make these rules consistent with Part 693 (Control of Sexually Transmissible Diseases Code:

> *Department, in accordance with rules for reporting and controlling the spread of disease, as otherwise provided by State law. Neither the Department nor its authorized representatives shall disclose information and records held by them relating to known or suspected cases of AIDS or HIV infection, publicly or in any action of any kind in any court or before any tribunal, board, or agency. AIDS and HIV infection data shall be protected from disclosure in accordance with the provisions of Sections 8-2101 through 8-2105 of the Code of Civil Procedure* (Section 9(d) of the AIDS Confidentiality Act).

In addition, various typographical, grammatical and form changes were made in response to comments from the Joint Committee on Administrative Rules.

12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreements issued by the Joint Committee? All changes agreed upon by the Department and the Joint Committee been made as indicated in the agreements issued by the Joint Committee.

13) Will the Rulemaking Replace an Emergency Rule Currently in Effect? No

14) Are there any other Amendments Pending on this Part? No

15) Summary and Purpose of Rules: This rulemaking specifies reporting requirements for physicians who diagnose cases of HIV. Beginning July 1, 1999, reports to the State will include a patient code number assigned by the provider and derived from demographic information and elements of the patient's name and/or other identifying information such as age, date of birth, age at diagnosis, current status (date of death), race/ethnicity, sex, country of birth, residence at diagnosis, and facility where diagnosis of AIDS was established. HIV cases are currently reported to the Department with information about age, race, gender, city of residence, and how the person became infected. The Department will monitor HIV case reports to determine the effectiveness of the HIV surveillance system. Criteria by which the Department will evaluate reporting data is specified in the rules. Additional confidentiality provisions that were added to the Illinois Sexually Transmissible Disease Control Act in P.A. 89-381 are also included in the proposed rules. These provisions prohibit the Department and its authorized representative from disclosing information and records held by them concerning cases of sexually transmissible diseases.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

16) Information and Questions Regarding these Adopted Rules shall be directed to:

Gail M. DeVito
Administrative Rules Coordinator
Division of Legal Services
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217) 782-2043
rules@idph.state.il.us

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER d: COMMUNICABLE DISEASE CONTROL AND IMMUNIZATIONS

PART 697
HIV/AIDS CONFIDENTIALITY AND TESTING CODE

SUBPART A: GENERAL PROVISIONS

SUBPART B: HIV TESTING

SUBPART C: HIV/AIDS REGISTRY SYSTEM

SUBPART D: HIV COUNSELING AND TESTING CENTERS

SUBPART E: MISCELLANEOUS PROVISIONS

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

AUTHORITY: Implementing and authorized by the AIDS Confidentiality Act [410 ILCS 305]; the AIDS Registry Act [410 ILCS 310]; the Communicable Disease Prevention Act [410 ILCS 315]; and Sections 55, 55.11, 55.41 and 55.45 of the Civil Administrative Code of Illinois [20 ILCS 2310/55, 55.11, 55.41 and 55.45].

SOURCE: Emergency rules adopted at 12 Ill. Reg. 1601, effective January 1, 1988, for a maximum of 150 days; adopted at 12 Ill. Reg. 9952, effective May 27, 1988; amended at 13 Ill. Reg. 11544, effective July 1, 1989; amended at 15 Ill. Reg. 11646, effective August 15, 1991; emergency amendment at 17 Ill. Reg. 1204, effective January 7, 1993, for a maximum of 150 days; emergency expired on June 7, 1993; amended at 17 Ill. Reg. 15899, effective September 20, 1993; amended at 19 Ill. Reg. 1117, effective January 20, 1995; amended at 22 Ill. Reg. 2199, effective DEC 5 1998.

SUBPART A: GENERAL PROVISIONS

Section 697.10 Applicability

a) This Part is in response to various statutes concerning acquired immunodeficiency syndrome (AIDS). The provisions of this rulemaking are organized into six components which consist of five Subparts and one appendix ~~two appendices~~. Subpart A includes general provisions which apply to all Sections of the Part such as definitions and administrative hearing rules.

b) Subpart B includes provisions concerning testing for the presence of antibodies to the human immunodeficiency virus (HIV) or any other causative agent of acquired immunodeficiency syndrome (AIDS). These provisions set forth the approved HIV tests and testing procedures, the information that must be given by a physician prior to ordering a HIV test, the written informed consent a physician must obtain prior to performing a HIV test, the requirements for HIV testing for insurance purposes, testing requirements for blood and human tissue donations, the disclosure or confidentiality rules, and the rules for enforcement of the AIDS Confidentiality Act.

c) Subpart C includes the provisions for the implementation of the HIV/AIDS Registry System. These provisions include information reported and the entities which report. In addition, provisions concerning the disclosure of registry information are included.

d) Subpart D includes provisions for the establishment and operation of alternative test sites known as "HIV Counseling and Testing Centers." These provisions specify how the centers are to be used ~~including prohibiting the centers from participating in HIV testing for marriage~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

~~license--application--purposes.---In--addition,~~ and include a brief outline of the services to be provided ~~are-briefly-outlined~~.

e) Subpart E includes miscellaneous provisions which concern children. These provisions set forth the requirements for notification of school principals of children with AIDS and HIV infection, the guidelines for management of chronic infectious diseases in school children, and requirements for testing, treatment or counseling of minors.

f) The appendix includes a ~~appendices--include--sample--forms--and--a bibliography-of-AIDS-laws-and-regulations.--The-sample--form--concerns the-required~~ written informed consent form.

(Source: Amended at 22 Ill. Reg. 21994, effective DEC 5 1998)

Section 697.20 Definitions

The following are definitions of terms used in this Part:

"*Act*" or "AIDS Confidentiality Act" means the AIDS Confidentiality Act ~~(Ill.-Rev.-Stat.-1991,-ch.-111-1/2,-par.-7301-et-seq.)~~ [410 ILCS 305].

"*AIDS" means acquired immunodeficiency syndrome, as defined by the Centers for Disease Control or the National Institutes of Health.* (Section 3(a) of the AIDS Registry Act)~~.~~ Similar definitions appear in the Act. Current definition can be found in 1993 Revised Classification System for HIV Infection and Expanded Surveillance Case Definition for AIDS Among Adolescents and Adults, Centers for Disease Control and Prevention (CDC). Morbidity and Mortality Weekly Report (MMWR), December 18, 1992; vol. 41, no. RR-17; and in 1994 Revised Classification System for HIV Infection for Children Less Than 13 Years of Age. Morbidity and Mortality Weekly Report (MMWR), vol. 43 RR-12. ~~"Revision-of-the-CDC-Surveillance-Case-Definition-for--Acquired Immunodeficiency--Syndrome",--Centers--for-Disease-Control.--Mortality and--Morbidity--Weekly--Report--(MMWR)--Suppl.,--December--18,---1992, 41(RR-17),--Public-Health-Service,-U.S.-Department-of-Health-and-Human Services,-Atlanta,-Georgia-30333.~~

"AIDS Registry Act" means the AIDS Registry Act ~~(Ill.-Rev.-Stat.-1991, ch.-111-1/2,-par.-7351-et-seq.)~~ [410 ILCS 310].

"Blood Bank" means any facility or location at which blood or plasma are procured, furnished, donated, processed, stored or distributed.

"Department" means the Illinois Department of Public Health. (Section 3(a) of the AIDS Confidentiality Act~~.~~)

"Designated Agency" means a health care organization under a service agreement with the Department to function in the capacity of a Local

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Health Authority for the purposes of this Part, in a jurisdiction not covered by a Local Health Authority.

"Health Care Provider" means any physician, nurse, paramedic, psychologist or other person providing medical, nursing, psychological, or other health care services of any kind. (Section 3(f) of the AIDS Confidentiality Act~~.~~)

"Health Facility" means a hospital, nursing home, blood bank, blood center, sperm bank, or other health care institution, including any "Health Facility" as that term is defined in the Illinois Health Facilities Authority Act. (Section 3(e) of the AIDS Confidentiality Act~~.~~)

"HIV" means the human immunodeficiency virus. (Section 3(c) of the AIDS Confidentiality Act~~.~~)

"Mortality" or "HIV infection" means infected with HIV, as evidenced by a confirmed laboratory test for antibodies to HIV as specified in Section 697.100, viral culture or positive antigen test or a clinical diagnosis of AIDS.

"Laboratory" means any facility or location at which tests are performed to determine the presence of antibodies to HIV, other than blood banks.

"Legally Authorized Representative" means an individual who is authorized to consent to HIV testing and/or disclosure of HIV test results for an individual who is:

Under the age of twelve (12),
Deceased,
Declared incompetent by a court of law, or
Otherwise not competent to consent (for ~~For~~ reasons other than age, such as the apparent inability to understand or communicate with the health care provider) as determined by the health care provider seeking such consent.

The following individuals shall be authorized to consent, in the stated order of priority:

For a living or deceased child under the age of ~~eighteen-(~~ 18~~)~~:

Parent, legal guardian or other court-appointed personal representative,
Adult next-of-kin.

For a living or deceased adult age ~~eighteen-(~~ 18~~)~~ or over:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Agent authorized by durable power of attorney for health care,
Legal guardian or other court-appointed personal representative,
Spouse,
Adult children,
Parent,
Adult next-of-kin.

"Local Health Authority" means *the full-time official health Department or Board of Health, having jurisdiction over a particular area.* (Illinois Sexually Transmissible Disease Control Act, ~~(Ill. Rev. Stat. 1991, ch. 111 1/2, par. 7401 et seq.)~~ [410 ILCS 325])

"Person" includes any natural person, partnership, association, joint venture, trust, governmental entity, public or private corporation, health facility or other legal entity. (Section 3(h) of the AIDS Confidentiality Act.)

"Physician" means a physician licensed to practice medicine under the Medical Practice Act of 1987 ~~(Ill. Rev. Stat. 1991, ch. 111, par. 4400-1 et seq.)~~ [225 ILCS 60].

"Test" or "HIV Test" means a test to determine the presence of the antibody or antigen to HIV, or of HIV infection. (Section 3(g) of the AIDS Confidentiality Act.)

"Written Informed Consent" means an agreement in writing executed by the subject of a test or the subject's legally authorized representative without undue inducement such as *any element of force, fraud, deceit, duress or other form of constraint or coercion* (See Appendix A, Illustration A), *which entails at least the following:*

A fair explanation of the test, including its purpose, potential uses, limitations and the meaning of its results; and

A fair explanation of the procedures to be followed, including the voluntary nature of the test, the right to withdraw consent to the testing process at any time prior to the completion of the laboratory tests, *the right to anonymity to the extent provided by law with respect to participation in the test and disclosure of test results, and the right to confidential treatment of information identifying the subject of the test and the results of the test, to the extent provided by law.* (Section 3(d) of the AIDS Confidentiality Act.)

(Source: Amended at 22 Ill. Reg. 21994, effective DEC 5 1998)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section 697.30 Incorporated Materials

The following materials are incorporated or referenced in this Part:

a) Illinois Statutes
   1) AIDS Confidentiality Act ~~(Ill. Rev. Stat. 1991, ch. 111 1/2, par. 7301 et seq.)~~ [410 ILCS 305],
   2) AIDS Registry Act ~~(Ill. Rev. Stat. 1991, ch. 111 1/2, par. 7351 et seq.)~~ [410 ILCS 310],
   3) The Communicable Disease Prevention ~~Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 22.10 et seq.)~~ [410 ILCS 315],
   4) The Unified Code of Corrections ~~(Ill. Rev. Stat. 1991, ch. 38, par. 1001-1-1 et seq.)~~ [730 ILCS 5],
   5) The Medical Patient Rights Act ~~(Ill. Rev. Stat. 1991, ch. 111 1/2, par. 5401 et seq.)~~ [410 ILCS 50],
   6) The Civil Administrative Code of Illinois ~~(Ill. Rev. Stat. 1991, ch. 127, par. 55 to 55.45)~~ [20 ILCS 2310/55 to 55.45].

b) Illinois Rules
   1) Control of Communicable Disease Code (77 Ill. Adm. Code 690) (see **See** in particular Section 697.140(a)(4) of this Part),
   2) Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693) (see **See** in particular Sections 697.140(a)(4) and 697.210(a) of this Part),
   3) Illinois Clinical Laboratories Code (77 Ill. Adm. Code 450) (see **See** in particular Section 697.180(c) and (e)),
   4) Blood Labeling Code (77 Ill. Adm. Code 460) (see **See** in particular Section 697.180(c) and (e) of this Part),
   5) Sperm Bank and Tissue Bank Code (77 Ill. Adm. Code 470) (see **See** in particular Section 697.180(c) and (e)),
   6) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100) (see **See** in particular Section 697.40 of this **the** Part),
   7) Illinois Blood Bank Code (77 Ill. Adm. Code 490).

c) Federal Rules
   42 CFR 2a.4(a)-(j), 2a.6(a)-(b), and 2a.7(a)-(b).

d) Other Codes, Guidelines and Standards
   1) 1993 Revised Classification System for HIV Infection and Expanded Surveillance Case Definition for AIDS Among Adolescents and Adults, Centers for Disease Control and Prevention (CDC). Morbidity and Mortality Weekly Report (MMWR), December 18, 1992; vol. 41, no. RR-17. ~~"Revision of the CDC Surveillance Case Definition for Acquired Immunodeficiency Syndrome," Centers for Disease Control. Morbidity and Mortality Weekly Report (MMWR) Supp. December 18, 1992, 41(RR-17), Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia 30333. (See the definition of AIDS in Section 697.20)~~
   2) 1994 Revised Classification System for HIV Infection for Children Less Than 13 Years of Age. Centers for Disease Control and Prevention (CDC). Morbidity and Mortality Weekly Report (MMWR),

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

vol. 43 (RR-12).

3)~~2)~~ The "Adult HIV/AIDS Confidential Case Report", as modified by the Department, a form prepared by the Centers for Disease Control and Prevention, Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia 30333, Office of Management and Budget No. 0920-0009. (1993) (See Section 697.210.)

4)~~3)~~ Guidelines for the Management of Chronic Infectious Diseases in School Children. (See Section 697.410.)

5)~~4)~~ "1993 Revised Classification Scheme for HIV Infection" and Expanded Surveillance Case Definiton for AIDS Among Adolescents and Adults, Centers for Disease Control~~,~~ and Prevention, Morbidity and Mortality Weekly Report (MMWR). Vol. 41, No. RR-17, December 18, 1992, Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia 30333.

e) All citations to federal regulations in this Part concern the specified regulations in the 1994 Code of Federal Regulations, unless another date is specified.

f) All incorporations by reference of federal regulations or standards and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.

(Source: Amended at 22 Ill. Reg. 21994, effective DEC 5 1998)

SUBPART B: HIV TESTING

Section 697.120 Written Informed Consent

a) *No person may order an HIV test without first receiving the written, informed consent of the subject of the test or the subject's legally authorized representative,* except as provided in subsection (b). (Section 4 of the AIDS Confidentiality Act~~.~~) ~~(See--Appendix--A,--Illustration-A,-for-a-Sample-Written-Informed-Consent-Form)~~

1) This written informed consent and test results must be obtained by the physician ordering the test or by another physician involved in the patient's care.

2) The responsibility of obtaining written informed consent may not be delegated by the physician. However, the task of obtaining written informed consent from the patient may be delegated to another health care provider who is knowledgeable about HIV infection, including possible medical and psychosocial aspects of such infection.

b) Written informed consent to perform an HIV test is not required in the following situations:

1) *When the health care provider or health facility procures, processes, distributes or uses a human body part donated for purposes specified under the Uniform Anatomical Gift Act*~~,~~ or the Organ Donation Request Act *and the test is performed to assure the medical acceptability of the human body part.* (Section 7 of the AIDS Confidentiality Act~~.~~)

2) *When the health care provider or health facility procures, processes, distributes or uses semen provided prior to September 21, 1987, for the purpose of artificial insemination and the test is performed to assure the medical acceptability of the semen.* (Section 7 of the AIDS Confidentiality Act~~.~~)

3) *When the testing is for the purpose of research and performed in such a way that the identity of the test subject is not known and may not be retrieved by the researcher, and in such a way that the test subject is not informed of the results of the testing.* (Section 8 of the AIDS Confidentiality Act~~.~~)

4) *When an HIV test is performed upon a person who is specifically required by* state or federal *law to be tested,* such as blood, plasma, semen and human tissue donors, immigrants to the United States, and persons required to be tested pursuant to Section 5-5-3 of the Unified Code of Corrections). (Section 11 of the AIDS Confidentiality Act~~.~~)

5) *When an insurance company, fraternal benefit society, health services corporation, health maintenance organization, or any other insurer subject to regulation under the Illinois Insurance Code, as amended requires any insured patient or applicant for new or continued insurance or coverage to be tested for infection with HIV or any other identified causative agent of AIDS.* (Section 3 of the Medical Patient Rights Act [410 ILCS 50/3] ~~AN ACT-concerning-certain-rights--of--medical--patients,-Ill.--Rev.-Stat.-1989,-ch.-111-1/2,-par.-5403).~~ (See Section 697.160.)

6) *When a health care provider or employee of a health facility, or a firefighter or an* Emergency Medical Technician-Ambulance *(EMT-A),* Emergency Medical Technician-Intermediate *(EMT-I)* or Emergency Medical Technician-Paramedic *(EMT-P) is involved in an accidental direct skin or mucous membrane contact with the blood or bodily fluids of an individual which is of a nature that may transmit HIV, as determined by a physician in his medical judgment. Should such test prove to be positive, the patient shall be provided appropriate counseling consistent with this Act.* (Section 7 of the AIDS Confidentially Act).

7) *When in the judgment of the physician, such testing is medically indicated to provide appropriate diagnosis and treatment to the subject of the test, provided that the subject of the test has otherwise provided his or her consent to such physician for medical treatment.* (Section 8 of the AIDS Confidentiality Act).

8) *For a health care provider or health facility to perform a test when a law enforcement officer is involved in the line of duty in a direct skin or mucous membrane contact with the blood or bodily fluids of an individual which is of a nature that may transmit*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

HIV, as determined by a physician in his medical judgment. Should such test prove to be positive, the patient shall be provided appropriate counseling consistent with this Act. For purposes of Section 7 ~~this--subsection~~ *(c)* ~~(~~of the Act~~)~~, *"Law Enforcement Officer" means any person employed by the State, a county or a municipality as a policeman, peace officer, auxiliary-policeman, correctional officer or in some like position involving the enforcement of the law and protection of the public interest at the risk of that persons life.* (Section 7 of the AIDS Confidentiality Act)~~.~~

21994

(Source: Amended at 22 Ill. Reg. _____, effective DEC 5 1998)

Section 697.140 Nondisclosure of the Identity of a Person Tested or Test Results

a) *No person may disclose or be compelled to disclose the identity of any person upon whom a test is performed, or the results of such a test in a manner which permits identification of the subject of the test, except to the following persons* (Section 9 of the AIDS Confidentiality Act)*:*

1) *The subject of the test or the subject's legally authorized representative* (Section 9(a) of the AIDS Confidentiality Act)*.* ~~.~~

2) *Any person designated in a legally effective release of the test results executed by the subject of the test or the subject's legally authorized representative.* (Section 9(b) of the AIDS Confidentiality Act) A legally effective release means a written release of medical information specific to HIV test results signed by the test subject. A general release is not sufficient. A single form may be used to authorize the release of medical records including HIV information provided such form specifically authorizes the release of any HIV information. Any such release, under this subsection, for HIV information must not reveal whether or not the information exists.

3) *An authorized agent or employee of a health facility or health care provider* or referring, treating or consulting physician, dentist, or podiatrist of the test subject, *if:*

A) *The health facility or health care provider itself is authorized to obtain the test results* (Health Facility or Health Care Provider, for the purposes of this subsection (a)(3)(A), include the medical records or similar personnel who handle and process medical records for that health facility or health care provider),

B) *The agent or employee* or referring, treating or consulting physician, dentist, or podiatrist of the test subject *provides patient care or handles or processes specimens of body fluids or tissues, and*

C) The agent or employee ~~*The agent or employee*~~ or referring, treating or consulting physician of the test subject *has a need to know such information.* (Section 9(c) of the AIDS Confidentiality Act) An authorized agent or employee of a health facility or health care provider ~~*An authorized agent or employee of a health facility or health care provider*~~ or referring, treating or consulting physician, dentist, or podiatrist has a need to know ~~*need to know*~~ the identity of the patient or the test results revealing the identity of the patient under the following circumstances:

i) When involved in direct patient care or handling or processing blood or bodily fluids for which this information is necessary in order to meet the medical needs of the patient, as certified by a physician, dentist, or podiatrist, or

ii) When involved in an accidental direct skin or mucous membrane contact with the blood or bodily fluids of a patient which is of a nature likely to transmit HIV, such as needle stick or percutaneous exposure, as certified by a physician, dentist, or podiatrist.

4) *The Department* or the Local Health Authority, *in accordance with rules for reporting and controlling the spread of disease,* or *as otherwise provided by State law* (See 77 Ill. Adm. Code 690, 693, 250, 300, 330, 350, 370, 390, and 840.)~~.~~. *Neither the Department nor its authorized representatives shall disclose information and records held by them relating to known or suspected cases of AIDS or HIV infection, publicly or in any action of any kind in any court or before any tribunal, board or agency. AIDS and HIV Infection shall be protected from disclosure in accordance with the provisions of Sections* 8-2101 *through* 8-2105 *of the Code of Civil Procedure.* (Section 9(d) of the AIDS Confidentiality Act)

5) *A health facility or health care provider which procures, processes, distributes or uses:*

A) *A human body part from a deceased person with respect to medical information regarding the person; or*

B) *Semen provided prior to September 21, 1987, for the purpose of artificial insemination* (Section 9(e) of the AIDS Confidentiality Act)*;*

6) *Health facility staff committees for the purpose of conducting program monitoring, program evaluation or service reviews* (Section 9(f) of the AIDS Confidentiality Act)*;*

~~7) A person allowed access to said record by a court order which is issued in compliance with the provisions of Section 9(g) of the AIDS Confidentiality Act;~~

7~~8~~) A school principal in accordance with the provisions of Section 697.400 of this Part.

8~~9~~) *Any health care provider or employee of a health facility, and any firefighter or any EMT-A, EMT-I,* EMT-P *involved in an*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

accidental direct skin or mucous membrane contact with the blood or bodily fluids of an individual which is of a nature that may transmit HIV, as determined by a physician in his medical judgment. (Section 9(h) of the AIDS Confidentiality Act)~~.~~

9~~)~~ *Any law enforcement officer, as defined in subsection (c) of Section 7 of the Act, involved in the line of duty in a direct skin or mucous membrane contact with the blood or bodily fluids of an individual which is of a nature that may transmit HIV, as determined by a physician in his medical judgment.* (Section 9(i) of the AIDS Confidentiality Act)~~.~~

10~~)~~ *A temporary caretaker of a child taken into temporary protective custody by the Department of Children and Family Services pursuant to Section 5 of the Abused and Neglected Child Reporting Act, as now or hereafter amended.* (Section 9(j) of the AIDS Confidentiality Act)~~.~~

b) HIV test results may be disclosed to health care providers and researchers when done in a manner which does not reveal the identity of the subject of the test. Any test results which cannot be revealed without identifying the subject of the test shall only be disclosed in accordance with the provisions of subsection ~~subsections (a)(1) through (9)~~ specified above. The Department shall disclose test results and demographic data without identifying information to researchers in accordance with Section 697.220.

c) The written informed consent form and HIV test results may be maintained in a confidential manner which allows disclosure only to persons authorized to receive the information under the provisions of subsection ~~subsections (a)(1) through (9)~~ specified above.

1) The written informed consent form and HIV test results may be maintained in a patient's medical record provided these materials are maintained in such a manner that does not permit disclosure to persons who may review the patient's medical record, but are not authorized to receive this information.

2) Any procedure utilized to maintain this information in a patient's medical record must be uniform and consistent for all patient records, in order to prevent revealing the existence or contents of this information. A procedure is uniform if medical records containing written informed consent forms and HIV test results cannot be distinguished from medical records which do not contain such information, unless the medical record is accessed and read. An example of such a procedure is one which establishes a segregated or separate confidential sealed portion of the medical record in every patient record with access restricted to persons authorized to receive the contents.

d) Liability and Sanctions

1) *Nothing is this Act shall be construed to impose civil liability or criminal sanction for disclosure of a test result in accordance with any reporting requirement of the Department for a diagnosed case of HIV infection, AIDS or a related condition.* (Section 15 of the Aids Confidentiality Act~~.~~)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

2) *Nothing in this Act shall be construed to impose civil or criminal sanction for performing a test without written informed consent pursuant to the provisions of subsection (b) or (c) of Section 7 of the AIDS Confidentiality Act.* (Section 15 of the AIDS Confidentiality Act~~.~~)

3) *The intentional or reckless violation of the AIDS Confidentiality Act or any regulation issued* under that Act ~~*hereunder shall constitute a Class class B misdemeanor.*~~ (Section 12 of the AIDS Confidentiality Act~~.~~)

e) Sections 697.110, 697.120, 697.130 and 697.140 *shall not apply to* eligibility and coverage requirements established by *a health maintenance organization nor to any insurance company fraternal benefit society, or other insurer regulated under the* "Illinois Insurance Code~~,"as amended~~. (Section 15.1 of the AIDS Confidentiality Act~~.~~)

(Source: Amended at 22 Ill. Reg. 21994, effective DEC 5 1998)

SUBPART C: HIV/AIDS REGISTRY SYSTEM

Section 697.200 HIV/AIDS Registry System

The HIV/AIDS Registry System has been created to compile more complete and precise statistical data than is presently available in order to evaluate AIDS treatment and prevention measures. The HIV/AIDS Registry System is a compilation of information concerning diagnosed cases of AIDS and HIV.

(Source: Amended at 22 Ill. Reg. 21994, effective DEC 5 1998)

Section 697.210 Reporting Requirements

a) Local Health Authorities which receive HIV/AIDS reports from physicians, ~~or~~ hospitals or laboratories shall report to the HIV/AIDS Registry System within seven ~~(7)~~ days after receiving the AIDS report. Prior to forwarding an HIV report to the Department, a Local Health Authority shall replace an individual's name with a unique identifier derived by methodology specified by the Department. (See Control of Sexually Transmissible Disease Code, 77 Ill. Adm. Code 693.30.)

b) The report shall be provided upon the "HIV/AIDS Confidential Case Report", as modified by the Department, a form prepared by the Centers for Disease Control and Prevention, Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia 30333, OMB No. 0920-0009 and supplied by the Department.

c) The Department requests, but does not require, hospitals maintained by the Federal Government or other governmental agencies within the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

United States to report HIV/AIDS case information concerning present or past residents of Illinois, using the "HIV/AIDS Confidential Case Report", as modified by the Department.

(Source: Amended at 22 Ill. Reg. 21994, effective [illegible])

Section 697.220 Release of HIV/AIDS Registry Information

a) *The Department may not release information gathered pursuant to the ~~this Act~~ (* AIDS Registry Act*) unless:*
   1) *It is in statistical form that does not identify the reporting entity, physician or patient in any way, including by address ~~non-identifiable~~;*
   2) *The release or transfer is to an Illinois Local Public Health Department or to a registry or health department of another state, and is of information concerning a person who is residing in that jurisdiction.* The Department shall disclose individual patient information concerning residents of another state to the Registry in the individual's state of residence if the recipient of reported information about HIV/AIDS is legally required to hold reported information about HIV/AIDS in confidence and provides protection from disclosure of patient identifying information equivalent to the protection afforded by the Illinois law. (Section 7(a) of the AIDS Registry Act)

b) *All data obtained directly from medical records of individual patients shall be for the confidential use of the Department and those entities authorized by the Department to view such records in order to carry out the purposes of the Registry Act ~~registry act~~.* (Section 7(b) of the AIDS Registry Act)

c) *The identity of any person whose condition or treatment has been studied, or any facts which are likely to reveal the identity of such person, shall be confidential and shall not be revealed in any report or any other matter prepared, released or published. Researchers may, however, use the names of persons when requesting additional information for research studies approved by the Department; provided however, that when request for additional information is to be made, the Department shall first obtain authorization from the patient or the patient's legally authorized representative* after ascertaining that a test subject's physical and psychological condition is suitable for such a request in the opinion of the test subject's physician. (Section 7(c) of the AIDS Registry Act)
   1) All requests by medical or epidemiologic researchers for confidential Registry data must be submitted in writing to the Registry. The request must include a study protocol which contains: objectives of the research; rationale for the research including scientific literature justifying current proposal; overall study methods, including copies of forms, questionnaires,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

and consent forms used to contact facilities, physicians or study subjects including methods for documenting compliance with 42 CFR 2a.4(a)-(j), 2a.6(a)-(b), and 2a. 7(a)-(b)(1); methods for the processing of data; storage and security measures taken to insure confidentiality of patient identifying information; time frame of the study; a description of the funding source of the study (e.g., federal contract); the curriculum vitae of the principal investigator and a list of collaborators. In addition, the research request must specify what patient or facility identifying information is needed and how the information will be used.

   2) All requests to conduct research and modifications to approved research proposals involving the use of data which includes patient or facility identifying information shall be subject to a review to determine compliance with the following conditions. The Department will enter into contracts for research which require the release of patient or facility identifying information when requests meet the following conditions:
      A) The request for patient or facility identifying information contains stated goals or objectives;
      B) The request documents the feasibility of the study design in achieving the stated goals and objectives;
      C) The request documents the need for the requested data to achieve the stated goals and objectives;
      D) The requested data can be provided within the time frame set forth in the request;
      E) The request documents that the researcher has qualifications relevant to the type of research being conducted;
      F) The research will not duplicate other research already underway using the same Registry data; and
      G) The request documents other such conditions relevant to the need for the patient or facility identifying information and the patient's confidentiality rights, because the Department will only release the patient or facility identifying information which is necessary for the research.
   3) The Department will enter into research contracts for all approved research requests. These contracts shall specify exactly what information is being released and how it can be used. In addition, the researcher shall include assurances that:
      A) The researcher understands that use of data is restricted to the specifications of the protocol;
      B) The researcher understands that any and all data which may lead to the identity of any patient, research subject, physician, other person, or hospital are strictly privileged and confidential and agrees to keep all such data strictly confidential at all times;
      C) The researcher understands that all officers, agents and employees are to keep all such data strictly confidential;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

D) The researcher agrees to communicate the requirements of this Section to all officers, agents, and employees, to discipline all persons who may violate the requirements of this Section, and to notify the Department in writing within ~~forth-eight--(~~ 48~~)~~ hours after ~~of~~ any violation of this Section, including full details of the violation and corrective actions to be taken;

E) The researcher understands that all data provided by the Department pursuant to this contract may only be used for the purposes named in this contract and that any other or additional use of the data shall result in immediate termination of this contract by the Department; and

F) The researcher understands that all data provided by the Department pursuant to this contract is the sole property of the Department and may not be copied or reproduced in any form or manner and agrees to return all data and all copies and reproduction of the data to the Department upon termination of the contract.

4) Any departures from the approved protocol must be submitted in writing and approved by the Director in accordance with subsection (c)(2) of this Section prior to initiation. No patient or facility identifying information may be released by a researcher to a third party.

5) The Department shall disclose individual patient or facility information to the reporting facility which originally supplied that information to the Department, upon written request of the facility.

d) HIV/AIDS information may be disclosed in accordance with the provisions of Sections 697.140 and 697.400 of this Part.

e) *No liability shall attach to any hospital, physician or other facility submitting information pursuant to this Act based upon a claim that such hospital, physician or facility reported information which may be confidential.* (Section 7(d) of the AIDS Registry Act)

(Source: Amended at 22 Ill. Reg. 21994, effective DEC 8 1998)

SUBPART D: HIV COUNSELING AND TESTING CENTERS

Section 697.300 HIV Counseling and Testing Centers

a) The Department shall *establish alternative blood* and *HIV test services*, known as "HIV Counseling and Testing Centers". Such facilities shall be operated by the Department or Designated Agencies. These facilities shall provide services in accordance with the provisions of this Part and the applicable provisions of the Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693, specifically Sections 693.40, 693.70, 693.80, 693.90, 693.100,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

693.120, 693.130 and 693.140.)

1) These facilities shall *not be operated by blood banks, plasma centers or hospitals.* (Section 55.41 of the Civil Administrative Code of Illinois)

2) Physicians and other health care providers may refer HIV-infected persons to these facilities for counseling.

3) Any person twelve ~~(12)~~ years of age or older may consent to testing and counseling at an HIV Counseling and Testing Center.

b) No person may be subjected to an HIV antibody test at HIV Counseling and Testing Centers, unless written informed consent is first obtained from the test subject or the test subject's legally authorized representative. (See Appendix A, Illustration A for a Sample Written Informed Consent Form.)

c) All persons seeking counseling and testing at a HIV Counseling and Testing Center shall remain anonymous and shall provide written informed consent using a coded system. All patient records shall be maintained using this code system.

d) The HIV Counseling and Testing Centers shall provide counseling to the test subject prior to performing the test. Such counseling shall include, but not necessarily be limited to:

1) information about the natural history of HIV infection and HIV transmission;

2) information about the meaning of the test and test results; such as the purpose, potential uses, limitations of the test and test results and the statutory rights to anonymous testing and to confidentiality; and about the availability of additional or confirmatory testing;

3) information about the availability of referrals for further information, or counseling; and

4) methods for prevention of transmission of HIV.

e) Contact interview and investigation services shall be provided only by counselors who have completed a course of training which included instruction in the following:

1) The etiology and transmission of HIV, including associated risk behaviors and activities and patient profiles of persons as significant risk of HIV infection;

2) The natural history and progression of HIV infection;

3) Methods for preventing transmission of HIV infection;

4) Principles and techniques of counseling, including demonstration of interviewing and counseling skills needed for epidemiologic management of HIV infected persons, critiqued role-playing, psychologic assessment and crisis intervention;

5) Principles and techniques of contact investigation and referral; and

6) Principles of communicable diseases.

f) It shall be the duty of every person providing results of an HIV antibody test to provide the subject of the test with an explanation of the test results, methods for prevention of HIV transmission, and

referrals for medical and psychological follow-up appropriate to the needs of the test subject. These referrals shall include appropriate referrals to physicians who will provide services to seropositive individuals, tuberculosis and sexually transmissable disease services facilities for psychological counseling and crisis intervention and substance abuse treatment facilities as available.

g) All persons with a positive HIV antibody test shall be offered the assistance of health professionals in locating and referring sex and needle sharing contacts for counseling and testing, with the consent of the infected person. All persons refusing such assistance shall be strongly encouraged to notify their previous sex and needle sharing contacts of their possible exposure to HIV, and to refer such contacts for counseling and possible testing.

1) HIV infected persons shall be asked to identify their sex and needle-sharing contacts for the preceding twelve month period. The counselor shall discuss the specific nature of each contact with the client to determine the likelihood of HIV transmission based on the type of sexual or needle-sharing practice involved and the counselor's knowledge of risk factors.

2) Those contacts determined to be at significant risk of infection, in the professional judgment of the counselor based on the type of sexual or needle sharing practice involved and the counselor's knowledge of risk factors, shall be investigated. Investigation shall be conducted for contacts for whom sufficient information to identify the person is available, such as first and last name, street address, or telephone number.

3) The counselor may prioritize the order in which contacts are to be investigated. The counselor shall provide first priority to those contacts who (based again on the counselor's professional judgement), except for contact notification, may not have reason to suspect they may be infected because the counselor has no information that the contacts:

A) are aware of having engaged in behavior likely to result in exposure; and/or

B) are knowledgeable about the type of behavior carrying such risks.

4) Persons choosing to self-refer their contacts shall receive intensive individualized instruction and counseling in methods to provide this notification and referral.

5) Contacts to persons with HIV infection, identified through the contact interview and investigative process, shall be counseled, confidentially and in person, regarding the possibility of infection, methods to prevent the spread of the infection, and services available from public health agencies. Such persons shall also be offered testing to determine infection.

6) If such person is legally unable to agree to counseling due to age or legal incompetence, consent and participation in counseling shall be requested of the individual's parent or legal guardian. If such person is legally able to agree to but appears to be incapable of understanding and competently acting on such counseling, in the professional judgment of the counselor, participation in counseling shall be requested of a parent or other person chosen by the client.

~~7) Record-Retention~~

~~A) All--records--regarding--contacts--to--cases--of-AIDS-or-HIV infection,-and-all-information-collected--in--investigations of--contacts--to-HIV-infection-shall-be-maintained-until-the local-Health-Authority,-Designated-Agency-or-the--Department is-able-to-document-that-counseling-has-been-provided-to-the contact--or-document-that-all-attempts-to-locate-the-contact have-been-unsuccessful.--In-no-case-shall--such--records--be maintained--for--a--period--to-exceed-six-months.--After-six months,--such--records--shall--be--destroyed--completely--by shredding-or-other-form-of-obliteration.~~

~~B) All-records-shall-be-confidential-and-shall-at-all-times--be maintained--in--the--same--manner--as--those--maintained-for reported-cases--of--AIDS--or--HIV--infection.--(See--Section 697.140-and-77-Ill.-Adm.-Code-693.30(c)).~~

h) It shall be the duty of every person conducting an HIV test in a HIV Counseling and Testing Center to provide results of the test only to the individual upon whom the test was performed. Such results are to be provided only in an individual face-to-face interview. The test subject may elect to have other persons present during the interview. It shall be the duty of the person providing the counseling to determine that the presence of a second party during the interview is not the result of undue inducement such as any element of force, fraud, deceit or other constraint or coercion.

i) It shall be the duty of every person with access to an individual's HIV antibody test results to maintain strict confidentiality of those results and the test subject's identity as required by law as specified in Section 697.140.

(Source: Amended at 22 Ill. Reg. 2194, effective OCT 5 1998)

SUBPART E: MISCELLANEOUS PROVISIONS

Section 697.400 Notification of School Principals

a) *Whenever a child of school age is reported to the Department or to a local health department as having been diagnosed as having AIDS ~~or ARC~~ or as having been shown to have been exposed to Human Immune Deficiency Virus (HIV) (or any other identified causative agent of AIDS) by testing positive on a Western Blot Assay or more reliable tests* as specified in Section 697.100, *such department shall give prompt* (within three working days) *and confidential notice of the*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

identity of the child to the principal of the school in which the child is enrolled. If the child is enrolled in a public school, the principal shall disclose the identity of the child to the superintendent of the school district in which the child resides. (Section 2a of the Communicable Disease Prevention Act [410 ILCS 315/2a]) ~~(Section 22.12a of "AN ACT in relation to the prevention of certain communicable diseases") (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 22.11 et seq., as amended by P.A. 85-1399, effective September 2, 1988)~~. School age is defined as between ages 5 and 21 by Section 10-20.12 of the ~~The~~ School Code [105 ILCS 5/10-20.12] ~~(Ill. Rev. Stat. 1987, ch. 122, par. 10-20.12)~~ and between ages 3 and 21 for handicapped children by the Education For All Handicapped Children Act (20 U.S.C. Section 1412(1)(B)). Diagnosed cases and laboratory results are reported to the Department in accordance with the provisions of the "Control of Sexually Transmissible Diseases Code" (77 Ill. Adm. Code 693). If the child resides in a county or city governed by a full-time Local Health Authority, such notification shall be the responsibility of the Local Health Authority. In all other cases, such notification shall be responsibility of the Department. The Local Health Authority or the Department shall offer assistance to the principal concerning HIV, the availability of counseling and training, and guidelines for management of the child in the classroom.

b) *Upon receipt of such notice, the principal may, as necessary,* such as when a student needs medical attention or must take medication during school attendance, or when the student's clinical condition necessitates other such services, *disclose the identity of an infected child to the school nurse at that school, the classroom teachers in whose classes the child is enrolled,* and *those persons who, pursuant to Federal or state law, are required to decide the placement or educational program of the child. In addition, the principal may inform such other persons as may be necessary* in the opinion of the principal *that an infected child is enrolled at that school so long as the child's identity is not revealed.* (Section 2a of the Communicable Disease Prevention Act [410 ILCS 315/2a]) ~~(Section 22.12a of "AN ACT in relation to the prevention of certain communicable diseases") (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 22.11 et seq.)~~.

c) No person to whom the child's identity is disclosed may disclose such information to any other person except as permitted by law (Sections 9 and 10 of the AIDS Confidentiality Act).

(Source: ~~Amended~~ at 22 Ill. Reg. 21994, effective DEC 3 1998)

Section 697.420 Testing, Treatment or Counseling of Minors

Any person twelve ~~(12)~~ years of age or older who may have come in contact with any STD, such as AIDS, ~~ARC~~ or HIV infection *may consent* to testing and to

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

medical care and/or counseling related to the diagnosis and/or treatment of such diseases. (Section 4 of the Consent by Minors to Medical Procedure Act [405 ILCS 210/4]) ~~4504 of "AN ACT in relation to the performance of medical, dental or surgical procedures on and counseling for minors." (Ill. Rev. Stat. 1987, ch. 111, par. 4504).~~

(Source: Amended at 22 Ill. Reg. 21994, effective DEC 3 1998)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section 697.APPENDIX B Statutory and Regulatory References to AIDS (Repealed)

a) The following is a list of statutory and regulatory references found in Illinois:
1) Sections 5-2 and 5-5.5 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, ch. 23, pars. 5-2 and 5-5.5)
2) Section 1005-5-3 of the Unified Code of Corrections (Ill. Rev. Stat. 1989, ch. 38, par. 1005-5-3)
3) Section 204 of the Illinois Marriage and Dissolution of Marriage Act (Ill. Rev. Stat. 1989, ch. 40, par. 204) (See 77 Ill. Adm. Code 693 and 697 for Department rules.)
4) Section 22.04 of "AN ACT in relation to public health" (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 22.04).
5) Section 22.12a of "AN ACT in relation to the prevention of certain communicable diseases" (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 22.12a) (See 77 Ill. Adm. Code 697.400 for Department rules.)
6) Section 308 of the Uniform Anatomical Gift Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 308)
7) Sections 6.08, 147.08, 147.09 and 152.2 of the Hospital Licensing Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 141 et seq.) (See 77 Ill. Adm. Code 250 for Department rules.)
8) Section 604-101, 607-102 and 607-106 of the Illinois Blood Bank Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 601-101 et seq.) (See 77 Ill. Adm. Code 490 and 460 for Department rules.)
9) Section 620-3.1 of the Blood Labeling Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 6201 et seq.) (See 77 Ill. Adm. Code 490 and 460 for Department rules.)
10) Section 1162 of the Illinois Health Facilities Planning Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1151 et seq.) (See 77 Ill. Adm. Code 1110 for Department rules.)
11) Sections 2.04 and 3 of "AN ACT concerning certain rights of medical patients" (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 5401 et seq.) (See 77 Ill. Adm. Code 697.)
12) Section 6 of the Illinois Health Statistics Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 5606)
13) Section 6 of the Alcoholism and Substance Abuse Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 6306)
14) AIDS Registry Act (Ill. Rev. Stat. 989, ch. 111 1/2, par. 7357 et seq.) (See 77 Ill. Adm. Code 697, Subpart C for Department rules.)
15) AIDS Confidentiality Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 7301 et seq.) (See 77 Ill. Adm. Code 697 for Department rules.)
16) Illinois Sexually Transmissible Disease Control Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par 7401 et seq.) (See 77 Ill. Adm. Code 693 for Department rules.)
17) Section 863 of the Critical Health Problems and Comprehensive Health Education Act (Ill. Rev. Stat. 1989, ch. 122, par. 863)
18) Sections 10-22.39, 27-9.1, 27-9.2 and 34-18.7 of The School Code (Ill. Rev. Stat. 1989, ch. 122, pars. 10-22.39, 27-9.1, 27-9.2 and 34-18.7)
19) Section 21 of "AN ACT in relation to communicable disease reports" (Ill. Rev. Stat. 1989, ch. 126, par. 21) (See 77 Ill. Adm. Code 690 for Department rules.)
20) Sections 55, 55.41, 55.45, 55.50 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1989, ch. 127, par. 55 et seq.) (See 77 Ill. Adm. Code 693 and 697 for Department rules.)

b) Statutory materials may be obtained from the Index Department of the Secretary of State's Office and will be compiled in the compilation known as the Illinois Revised Statutes.

c) Regulatory materials may be obtained from the Administrative Code Division of the Secretary of State's Office or the promulgating agency.

(Source: Repealed at 22 Ill. Reg. 21994, effective DEC 5 1998)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Ambulatory Surgical Treatment Center Licensing Requirements

2) Code Citation: 77 Ill. Adm. Code 205

3)

Section Numbers:	Adopted Action:
205.540	Amendments
205.620	Amendments

4) Statutory Authority: Ambulatory Surgical Treatment Center Act [210 ILCS 5]

5) Effective date of amendments: December 4, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain any incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.

9) Notice of Proposal was Published in Illinois Register: January 30, 1998 - 22 Ill. Reg. 2523

10) Has JCAR issued a Statement of Objections to these amendments? No

11) Difference between proposal and final version:

The following changes were made in response to comments received during the first notice or public comment period: None

The following changes were made in response to comments and suggestions of the JCAR: None

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? JCAR did not request any changes.

13) Will these amendments replace emergency amendments currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and purpose of the amendments: Section 205.540 is being amended

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

to clarify transfer provisions. Section 205.620 is being amended to change requirements concerning submission of statistical data to the Department. Quarterly submittals will no longer be required. Instead, facilities will collect, compile, and maintain the required information and make it available upon the Department's request.

16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Gail DeVito
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-2043
rules@idph.state.Il.us

The full text of the adopted Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITAL AND AMBULATORY CARE FACILITIES

PART 205
AMBULATORY SURGICAL TREATMENT CENTER LICENSING REQUIREMENTS

SUBPART A: GENERAL

SUBPART B: OWNERSHIP AND MANAGEMENT

SUBPART C: PERSONNEL

SUBPART D: EQUIPMENT, SUPPLIES, AND FACILITY MAINTENANCE

SUBPART E: GENERAL PATIENT CARE

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SUBPART F: RECORDS AND REPORTS

SUBPART G: LIMITED PROCEDURE SPECIALTY CENTERS

SUBPART H: LICENSURE PROCEDURES

SUBPART I: BUILDING DESIGN, CONSTRUCTION STANDARDS, AND PHYSICAL REQUIREMENTS

SUBPART J: MECHANICAL

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

205.1540 Air Conditioning, Heating and Ventilating Systems

SUBPART K: PLUMBING AND OTHER PIPING SYSTEMS

Section
205.1610 General
205.1620 Plumbing Fixtures
205.1630 Water System
205.1640 Drainage Systems
205.1650 Identification

SUBPART L: ELECTRICAL

Section
205.1710 General
205.1720 Switchboards and Power Panels
205.1730 Panelboards
205.1740 Lighting
205.1750 Receptacles (Convenience Outlets)
205.1760 Grounding
205.1770 Equipment Installation in Special Areas
205.1780 Emergency Electric Service
205.1790 Fire Alarm System

TABLE A General Pressure Relationships and Ventilation Rates of Ambulatory Surgery Area

AUTHORITY: Implementing and authorized by the Ambulatory Surgical Treatment Center Act [210 ILCS 5].

SOURCE: Amended July 18, 1974; emergency amendment at 3 Ill. Reg. 10, p. 43, effective February 23, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 30, p. 371, effective July 23, 1979; amended at 5 Ill. Reg. 12756, effective November 4, 1981; amended at 6 Ill. Reg. 6220, 6225, and 6226, effective May 17, 1982; amended at 6 Ill. Reg. 10974, effective August 30, 1982; amended at 6 Ill. Reg. 13337, effective October 20, 1982; amended at 7 Ill. Reg. 7640, effective June 14, 1983; codified at 8 Ill. Reg. 9367; amended at 9 Ill. Reg. 12014, effective July 23, 1985; amended at 10 Ill. Reg. 8806, effective June 1, 1986; amended at 10 Ill. Reg. 21906, effective January 15, 1987; amended at 11 Ill. Reg. 14786, effective October 1, 1987; amended at 12 Ill. Reg. 3743, effective February 15, 1988; amended at 12 Ill. Reg. 15573, effective October 1, 1988; amended at 13 Ill. Reg. 16025, effective November 1, 1989; emergency amendment at 14 Ill. Reg. 5596, effective March 26, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13802, effective August 15, 1990; amended at 15 Ill. Reg. 17770, effective December 1, 1991; amended at 17 Ill. Reg. 3507, effective March 3, 1993; amended at 18 Ill. Reg. 11939, effective July 22, 1994; amended at 18 Ill. Reg. 17250, effective December 1, 1994; amended at 22 Ill. Reg. 9335, effective May 20, 1998; amended at 22 Ill. Reg. 22019,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

effective DEC 4 1998.

SUBPART E: GENERAL PATIENT CARE

Section 205.540 Postoperative Care

a) Patients shall be observed in the facility for a period of time sufficient to ensure that the patient is awake, physiologically stable, manifests no immediate postoperative complications, and is ready to return to home or to a similar environment. No patient shall be required to leave the center in less than one ~~(1)~~ hour following the procedure(s) ~~procedures~~.

b) Rh factor sensitization prophylaxis shall be provided to all Rh negative patients following procedures performed to terminate pregnancy, in accordance with standard medical procedures.

c) Patients in whom a complication is known or suspected to have occurred during or after the performance of a surgical procedure~~,~~ shall be informed of such condition, and arrangements shall be made for treatment of the complication. In the event of admission to a hospital, ~~an--inpatient--facility~~ a summary of care given in the ambulatory surgical treatment center concerning the suspected complication(s) ~~complication~~ shall accompany the patient.

d) To ensure ~~insure~~ availability of follow-up care at a licensed hospital, the ambulatory surgical treatment center shall provide written documentation of one of the following:
   1) A transfer agreement with a licensed hospital within approximately ~~fifteen-(~~ 15~~)~~ minutes travel time of the facility.
   2) A statement that the medical director of the facility has full admitting privileges at a licensed hospital within approximately ~~fifteen--(~~ 15~~)~~ minutes travel time and that he/she will assume responsibility for all facility patients requiring such follow-up care.
   3) A statement that each staff physician, dentist, or podiatrist has admitting privileges in a licensed hospital within ~~fifteen-(~~ 15~~)~~ minutes travel time of the facility.

e) Written instructions shall be issued to all patients in accordance with the standards approved by the consulting committee of the ambulatory surgical treatment center and shall include the following:
   1) Symptoms of complications associated with procedures performed.
   2) Limitations and/or restrictions of activities of the patient.
   3) Specific telephone number to be used by the patient, at any time ~~anytime~~, should any complication or question arise.
   4) A date for a follow-up or return visit after the performance of the surgical procedure, which shall be scheduled within six weeks.

f) Patients shall be discharged only on the written signed order of a physician. The name, or relationship to the patient, of the person accompanying the patient upon discharge from the facility shall be

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

noted in the patient's medical record.

g) Information on availability of family planning services shall be provided, when desired by the patient, to all patients undergoing a pregnancy termination procedure. When, in the physician's opinion, it is in the best interests of the patient and with the patient's consent, family planning services may be initiated prior to the discharge of the patient.

(Source: Amended at 22 Ill. Reg. 22019, effective DEC 4 1998)

SUBPART F: RECORDS AND REPORTS

Section 205.620 Statistical Data

a) Each ambulatory surgical treatment center shall collect, compile and maintain the following clinical statistical data at the facility to be made available ~~submit~~ to the Department during a survey or inspection, or upon the Department's request ~~clinical statistical data including the following~~:

1) the total number of surgical cases treated by the center;~~.~~
2) the number of each specific surgical procedure performed;~~.~~
3) the number and type of complications reported, including the specific procedure associated with each complication;~~.~~
4) the number of patients requiring transfer to a licensed hospital for treatment of complications. List the procedure performed and the complication that ~~which~~ prompted each transfer; and~~.~~
5) the number of deaths, including the specific procedure that was performed.

b) This clinical statistical data shall be collected, compiled and maintained ~~submitted to the Department~~ quarterly, with reports completed ~~due~~ no later than January 31, April 30, July 31 and October 31 for the preceding quarter.

(Source: Amended at 22 Ill. Reg. 22019, effective DEC 4 1998)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Control of Sexually Transmissible Diseases Code

2) Code Citation: 77 Ill. Adm. Code 693

3)

Section Numbers:	Adopted Action:
693.10	Amendment
693.15	Amendment
693.20	Amendment
693.30	Amendment
693.40	Amendment
697.100	Amendment

4) Statutory Authority: Implementing and authorized by Illinois Sexually Transmissible Disease Control Act [410 ILCS 325] and Sections 2 and 6 of the Department of Public Health Act [20 ILCS 2305/2 and 6].

5) Effective Date of Rules: December 5, 1998

6) Does this Rulemaking Contain an Automatic Repeal Date? No

7) Does this Rulemaking Contain Incorporations by Reference? Yes

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.

9) Date Notice of Proposed Rulemaking was Published in the Illinois Register: February 27, 1998 - 22 Ill. Reg.4302

10) Has the Joint Committee on Administrative Rules Issued a Statement of Objection to this Rulemaking: No

11) Difference Between Proposal and Final Version:

In Section 693.10, definitions for "HIV detection test" and "patient code number" were added.

In Section 693.15, incorporations by reference were updated for the "1993 Revised Classification System for HIV Infection and Expanded Surveillance Case Definition for AIDS Among Adolescents and Adults", the "1994 Revised Classification System for HIV Infection for Children Than 13 Years of Age", and the "Pediatric AIDS Confidential Case Report", all published by the Centers for Disease Control and Prevention (CDC).

Section 693.20 was brought into the rulemaking at second notice and revised to include as a reportable STD laboratory result, a CD4+ count with an absolute result of less than 200 CD4+ lymphocytes per microliter or a relative value of less than 14 percent of total lymphocytes, the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

levels specified by the Centers for Disease Control and Prevention for defining AIDS.

In Section 693.30(a)(3)(C) new requirements for reporting cases of HIV beginning on July 1, 1999 were added as follows:

C) On or after July 1, 1999, for HIV infection in cases not clinically diagnosed or treated as AIDS by the reporting physician:
   i) A patient code number derived from demographic information and elements of the patient's name and/or other identifying information, age, date of birth, age at diagnosis, current status (date of death), race/ethnicity, sex, country of birth, residence at diagnosis, facility where diagnosis of HIV was established;
   ii) Patient risk history;
   iii) Laboratory results of HIV antibody tests, HIV detection tests, or immunologic laboratory tests;
   iv) Information concerning the presence and method of diagnosis of AIDS indicator diseases;
   v) For reports submitted by health care facilities, the name and telephone number of the individual completing the form, if different from the physician;
   vi) Information concerning treatment services and referrals and, for women, information on both the current pregnancy status and births after 1977, and for perinatal cases, information about birth history;
   vii) Whether the individual has had any invasive procedures performed on him or her and, if so, the types of invasive procedures and the name(s) of the health care provider(s) who performed those invasive procedures; and
   viii) Whether the individual is a health care provider, and, if so, the type of health care provider and whether the individual has performed invasive procedures.
   ix) Whether post-test counseling and/or sex/needle sharing partner referral has taken place or whether assistance is needed from the Local Health Authority or the Department.
D) All reporting sources are required to maintain a system permitting the patient code number to be linked to a specific individual for purposes of additional follow-up if necessary.
E) The Department will monitor HIV case reports to determine the effectiveness of the HIV surveillance system. Beginning on July 1, 1999, the Department will collect data to be evaluated beginning on January 1, 2001 to determine whether the following criteria are satisfied:
   i) All elements of the patient identification code are complete in at least 90 percent of all reported cases;
   ii) Patient risk information is provided in 90 percent of case reports and the remaining information in the case report is complete in 85 percent of the case reports, after epidemiologic follow-up is

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

   completed;
   iii) No more than 5% of cases in the HIV databases are duplicate reports;
   iv) 95 percent of providers will be able to link a patient code number to a case report when additional follow-up is necessary; and
   v) A system to link at least 95 percent of the patient code numbers for reported cases of HIV infection to the subject of the case report is maintained by at least 95% of providers. For purposes of evaluation, the Department may review, but may not copy, records held by the reporting source. The evaluation shall not identify, by name or other identifying information, any provider or subject of a case report.
F) The Department shall complete its evaluation of the system no later than July 1, 2001. If, at the conclusion of the evaluation, the Department has determined that the criteria described in subsection (a)(3)(E) of this Section have not been met, all subsequently reported cases of HIV infection not clinically diagnosed or treated as AIDS by the reporting physician shall include all of the information described in subsection 693.30(a)(3)(C) of this Section, except that the report shall include the test subject's name and the patient code number specified in subsection (a)(3)(C)(i) will not be generated by the provider.

In Section 693,40(c), the following exceptions from reporting are specified:

c) Physicians are not required to file HIV case reports for:
   1) Patients known to reside outside of Illinois;
   2) Persons tested at IDPH designated anonymous test sites; or
   3) Participants in research projects approved by an institutional review board when the research is not primarily intended to provide medical treatment to participants and is conducted under the following conditions:
      A) all personal identifiers are removed from the specimen before testing, or
      B) the specimen cannot be linked to the individual from whom the specimen was collected, or
      C) positive HIV results are due to vaccine administration, or
      D) the research is not primarily intended to provide medical treatment to participants.

In Section 693.100(b), concerning confidentiality of information and records held by the Department, the release of information pursuant to a subpoena is prohibited.

In addition, various typographical, grammatical and form changes were made in response to comments from the Joint Committee on Administrative Rules.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreements issued by the Joint Committee? All changes agreed upon by the Department and the Joint Committee been made as indicated in the agreements issued by the Joint Committee.

13) Will the Rulemaking Replace an Emergency Rule Currently in Effect? No

14) Are there any other Amendments Pending on this Part? No

15) Summary and Purpose of Rules: This rulemaking specifies reporting requirements for physicians who diagnose cases of HIV. Beginning July 1, 1999, reports to the State will include a patient code number assigned by the provider and derived from demographic information and elements of the patient's name and/or other identifying information such as age, date of birth, age at diagnosis, current status (date of death), race/ethnicity, sex, country of birth, residence at diagnosis, and facility where diagnosis of AIDS was established. HIV cases are currently reported to the Department with information about age, race, gender, city of residence, and how the person became infected. The Department will monitor HIV case reports to determine the effectiveness of the HIV surveillance system. Criteria by which the Department will evaluate reporting data is specified in the rules. Additional confidentiality provisions that were added to the Illinois Sexually Transmissible Disease Control Act in P.A. 89-381 are also included in the proposed rules. These provisions prohibit the Department and its authorized representative from disclosing information and records held by them concerning cases of sexually transmissible diseases.

16) Information and Questions Regarding these Adopted Rules shall be directed to:

Gail M. DeVito
Administrative Rules Coordinator
Division of Legal Services
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217) 782-2043
rules@idph.state.il.us

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER k: COMMUNICABLE DISEASE CONTROL AND IMMUNIZATIONS

PART 693
CONTROL OF SEXUALLY TRANSMISSIBLE DISEASES CODE

Section

AUTHORITY: Implementing and authorized by the Illinois Sexually Transmissible Disease Control Act [410 ILCS 325] and Sections 2 and 6 of the Department of Public Health Act [20 ILCS 2305/2 and 6].

SOURCE: Adopted at 12 Ill. Reg. 10097, effective May 27, 1988; amended at 15 Ill. Reg. 11686, effective August 15, 1991; emergency amendment at 15 Ill. Reg. 16462, effective October 28, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 5921, effective March 30, 1992; emergency amendment at 17 Ill. Reg. 1213, effective January 7, 1993, for a maximum of 150 days; emergency expired June 7, 1993; amended at 17 Ill. Reg. 15909, effective September 20, 1993; amended at 19 Ill. Reg. 1126, effective January 20, 1995; amended at 22 Ill. Reg. 22026, effective DEC 5 1998.

Section 693.10 Definitions

The following definitions shall apply to the terms used in this Part, unless specifically stated otherwise:

"Act" means Illinois Sexually Transmissible Disease Control Act [410 ILCS 325] ~~(Ill. Rev. Stat. 1989, ch. 111 1/2, par. 7401 et seq.)~~.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"Blood Bank" means any facility or location at which blood or plasma are procured, furnished, donated, processed, stored or distributed.

"Carrier" means a person infected with an STD who is capable of transmitting the infection to others.

"Contact" means

an individual who has been in direct sexual contact with a carrier of syphilis, gonorrhea or chlamydia;

an individual who has been in direct sexual or needle contact with a person with AIDS or HIV infection;

an individual who has received insemination, a blood transfusion or an organ or tissue transplantation donated by a person with AIDS or HIV infection;

An individual who has undergone invasive procedures performed by an HIV infected health care provider and the Department has determined that there is or may have been potential risk of HIV transmission from the health care provider to that individual;

A health care provider who has performed invasive procedures for a person infected with HIV and the Department has determined that there is or may have been potential risk of HIV transmission from the infected person to the health care provider. (Section 5.5(c) of the Act)

"Department" means the *Illinois Department of Public Health.* (Section 3 of the Act)~~.~~

"Designated Agency" means a health care organization designated by the Department under a service agreement with the Department to function in the capacity of a Local Health Authority for the purposes of this Part, in a jurisdiction not covered by a Local Health Authority.

"Epidemiologic Data" means information obtained through the contact interview and counseling process, regarding possible exposure to an STD.

"Exposure-Prone Invasive Procedure" means an invasive procedure involving digital palpation of a needle tip in a body cavity, or the simultaneous presence of a health care provider's fingers and a needle or other sharp instrument or object in a poorly visualized or highly confined anatomical site.

"Health Care Provider" means any physician, dentist, podiatrist, nurse

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

or other person providing health care services of any kind. (Section 3(f) of the AIDS Confidentiality Act [410 ILCS 305/3(f)])

"HIV" means the human immunodeficiency virus.

"HIV detection test" means an HIV culture, HIV antigen test, or HIV PCR, DNA or RNA probe.

"HIV-Infection" means infected with HIV, as evidenced by a confirmed laboratory test for antibodies to HIV as specified in Section 697.100 viral culture or positive antigen test or a clinical diagnosis of AIDS.

"Invasive Procedure" means surgical entry into tissues, cavities, or organs or repair of major traumatic injuries associated with any of the following:

an operating or delivery room, emergency department, or outpatient setting, including both physicians' and dentists' offices;

cardiac catheterizations and angiographic procedures;

vaginal or cesarean delivery or other invasive obstetrical procedure during which bleeding may occur; or

manipulation, excision of any oral or perioral tissue, including tooth structure, during which bleeding or the potential for bleeding exists.

"Isolation" means separation of an individual presenting a threat to the public health from others until such time as a risk to the public health no longer exists.

"Laboratory" means any facility or location at which tests are performed to determine the presence of infection with an STD, other than a blood bank.

"Local Health Authority" means *the full-time official health department or board of health having jurisdiction over a particular area.* (Section 3 of the Act~~.~~)

"Patient Code Number" means an identification number developed for the reporting of a case of HIV diagnosed or treated after July 1, 1999 that is developed by the reporting source using a methodology determined by the Department and is derived from demographic information, elements of the individual's name, and/or other identifying information.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"Quarantine" means the closure to public access of a location that presents a risk to the public health until such time that a risk to the public health no longer exists.

"Sexually Transmissible Disease (STD)" means Syphilis, Gonorrhea, Chlamydia, Acquired Immunodeficiency Syndrome (AIDS) or HIV infection, as defined in Section 693.20.

"Self-Refer" means to notify one's previous sex and needle sharing contacts, where applicable, of their possible exposure to an STD or HIV, and to refer such contacts to appropriate health professionals for counseling and possible testing.

"Susceptible" means capable of becoming infected with the etiologic agent of an STD.

"Suspected Case" means a person who is reasonably believed to be infected with an STD, based on medical or epidemiologic data.

"Venereal Disease" means a formerly used term now synonymous with STD.

(Source: Amended at 22 Ill. Reg. 22026, effective DEC 5 1998)

Section 693.15 Incorporated Materials

The following materials are incorporated or referenced in this Part:

a) Illinois Statutes

1) Illinois Sexually Transmissible Disease Control Act ~~{Ill.~~ ~~Rev.~~ ~~Stat.~~ ~~1991,~~ ~~ch.~~ ~~111~~ ~~1/2,~~ ~~par.~~ ~~7401~~ ~~et seq.}~~ [410 ILCS 325].

2) Sections 2 and 6 of the Department of Public Health Act ~~{Ill.~~ ~~Rev.~~ ~~Stat.~~ ~~1991,~~ ~~ch.~~ ~~111~~ ~~1/2,~~ ~~pars.~~ ~~22~~ ~~and~~ ~~22.04}~~ [20 ILCS 2305/2 and 6].

3) The Consent by Minors to Medical Procedures Act ~~{Ill.~~ ~~Rev.~~ ~~Stat.~~ ~~1991,~~ ~~ch.~~ ~~111,~~ ~~par.~~ ~~4501~~ ~~et seq.,~~ ~~in particular par.~~ ~~4504}~~ [410 ILCS 210 ~~and 210/4~~].

b) Illinois Rules

1) AIDS Confidentiality and Testing Code (77 Ill. Adm. Code 697) (see See Sections 693.30(b)(1), (d) and (h) and 693.100(b)(4) and (5) of this Part).

2) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100) (see See Section 693.35 of this Part).

3) Program Standards for Local Health Departments (77 Ill. Adm. Code 615) (see See Section 693.40(c)(7) of this Part).

c) Other Codes, Guidelines and Standards

1) 1993 Revised Classification System for HIV Infection and Expanded Surveillance Case Definition for AIDS Among Adolescents and Adults, Centers for Disease Control and Prevention (CDC), Morbidity and Mortality Weekly Report (MMWR), December 18, 1992; vol 41, no. RR-17. ~~"Revision of the CDC Surveillance Case Definition for Acquired Immunodeficiency Syndrome", Centers for Disease Control (CDC), Morbidity and Mortality Weekly Report (MMWR) Supp., December 18, 1992, 41(RR-17), Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia 30333.~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

2) 1994 Revised Classification System for HIV Infection for Children Less Than 13 Years of Age, Centers for Disease Control and Prevention (CDC), Morbidity and Mortality Weekly Report (MMWR), vol. 43, no. RR-12.

3) ~~2)~~ The "Adult AIDS Confidential Case Report", as modified by the Department, a form prepared by the Centers for Disease Control and Prevention, Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia 30333, Office of Management and Budget (OMB) No. 0920-0009 (1993) and the "Pediatric AIDS Confidential Case Report", as modified by the Department, a form prepared by the Centers for Disease Control and Prevention, Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia 30333, Office of Management and Budget (OMB) No. 0920-0009 (1996).

4) ~~3)~~ "Recommendations for Prevention of HIV Transmission in Health-Care Settings" (Centers for Disease Control and Prevention, Morbidity and Mortality Weekly Report (MMWR) 1987, Vol. 36, Supp. no. 25, pages 3S-18S).

5) ~~4)~~ Joint Advisory Notice, Department of Labor/Department of Health and Human Services, HBV/HIV, Federal Register, Vol. 52, No. 210, pp. 41818-41823, October 30, 1987. (See Section 693.140.)

6) ~~5)~~ "Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures" (Centers for Disease Control and Prevention, Morbidity and Mortality Weekly Report (MMWR), Vol. 40, No. RR-8, July 12, 1991).

d) All citations to federal regulations in this Part concern the specified regulations in the 1994 Code of Federal Regulations, unless another date is specified.

e) All incorporations by reference of federal regulations or standards and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.

(Source: Amended at 22 Ill. Reg. 22026, effective DEC 5 1998)

Section 693.20 Reportable STDs and Laboratory Results

a) The Department has determined that the following shall be considered reportable STDs:

1) Acquired Immunodeficiency Syndrome (AIDS), as defined by the Centers for Disease Control of the United States Public Health Service, in 1993 Revised Classification System for HIV Infection and Expanded Surveillance Case Definition for AIDS Among Adolescents and Adults, Centers for Disease Control and Prevention (CDC), Morbidity and Mortality Weekly Report (MMWR), December 18, 1992; vol. 41, no. RR-17, ~~A Revision of the CDC Case Definition for Acquired Immunodeficiency Syndrome", Centers for Disease Control. MMWR Suppl., December 18, 1992; 41(RR-17), Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia 30333.~~ and in 1994 Revised Classification System for HIV Infection for Children Less Than 13 Years of Age. Morbidity and Mortality Weekly Report (MMWR), vol. 43, no. RR-12,
2) HIV Infection (see ~~See~~ Section 693.10 for a definition),
3) Syphilis,
4) Gonorrhea,
5) Chlamydia.

b) The Department has determined that the following shall be considered reportable STD laboratory results:
1) A serologic test for antibodies to the human immunodeficiency virus (HIV), which is reactive on two or more enzyme-linked immunosorbent assay (ELISA) tests and on one confirmatory Western blot assay test or Indirect Fluorescent Antibody Test (see ~~See~~ 77 Ill. Adm. Code 697.100(b)),
2) A serologic test for syphilis, either presumptive or confirmatory, which is weakly reactive, reactive, or positive,
3) A test for gonorrhea or chlamydia, such as the smear, culture or ELISA test, which is reactive or positive.
4) A CD4+ count with an absolute result of less than 200 CD4+ lymphocytes per microliter or a relative value of less than 14% of total lymphocytes, the levels specified by the Centers for Disease Control and Prevention for defining AIDS.

(Source: Amended at 22 Ill. Reg. 22026, effective DEC 5 1998)

Section 693.30 Reporting

a) Every physician licensed under the provisions of the Illinois Medical Practice Act shall report each case in which the physician has clinically diagnosed or treated a case of AIDS, HIV infection, syphilis, gonorrhea or chlamydia, or received a reportable STD laboratory result as set forth in Section 693.20(b). A hospital may, at the request of the physician of a person who has been admitted to the hospital, submit the physician's report to the appropriate health authority through the identifiers established disease-reporting mechanism. In all cases, the physician is responsible for ensuring

that reporting is accomplished.
1) The STD case report shall be mailed within five days after such diagnosis or treatment. The STD laboratory report shall be mailed within five ~~(5)~~ days after receipt of the laboratory results.
2) If the reporting source is located in a county or city governed by a full-time Local Health Authority, the STD report shall be made to that health authority. For syphilis, gonorrhea and chlamydia patients in jurisdictions not covered by a Local Health Authority but by a Designated Agency, such reports shall be made to that Designated Agency. In all other cases, the STD report shall be made directly to the Illinois Department of Public Health.
3) For cases of AIDS or HIV infection, the STD report shall be made on a form furnished by the Department. For each report of AIDS, a physician shall complete the "Adult AIDS Confidential Case Report", as modified by the Department (or Pediatric AIDS Confidential Case Report, as modified by the Department for children under 13 years), which are forms developed by the Centers for Disease Control and Prevention (CDC), Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia 30333, OMB No. 0920-0009. For cases of HIV infection, the STD report shall be made on a form furnished by the Department. The STD report shall state the name, address and telephone number of the physician, the date of the report, as well as the following information, as available:
A) For AIDS:
i) The individual's name, Social Security Number, address, telephone number, age, date of birth, age at diagnosis, current status (date of death), race/ethnicity, sex, country of birth, residence at diagnosis, facility where diagnosis of AIDS was established;
ii) Patient risk history;
iii) Laboratory results of ~~on~~ HIV antibody tests, HIV detection tests, or immunologic laboratory tests;
iv) Information concerning the presence and method of diagnosis of AIDS indicator ~~diseases, including the RVCT case number, the nine digit code for individuals with tuberculosis~~;
v) Each successive AIDS indicator ~~related diagnosed successive, opportunistic~~ disease (e.g., Pneumocystis carinii pneumonia, Kaposi's sarcoma or esophageal candidiasis), regardless of whether the case is known or thought to have been previously reported in another state or health jurisdiction;
vi) For reports submitted by health care facilities, the name and telephone number of the individual completing

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

the form, if different from the physician;

vii) Information concerning treatment services and referrals and, for women, information on both the current pregnancy status and births after 1977, and for prenatal cases, information about birth history;

viii) Whether the individual has had any invasive procedures performed on him or her and, if so, the types of invasive procedures and the name(s), address(es) and telephone number(s) of the health care provider(s) who performed those invasive procedures; ~~and~~

ix) Whether the individual is a health care provider~~,~~ ~~and~~, if so, the type of health care provider and whether the individual has performed invasive procedures; and~~,~~

x) Whether post-test counseling and/or sex/needle sharing partner referral has taken place or whether assistance is needed from the Local Health Authority or the Department.

B) ~~For~~ Prior to July 1, 1999, for HIV infection in cases not clinically diagnosed or treated as AIDS by the reporting physician:

i) The individual's city of residence, age, race/ethnicity, sex,

ii) The laboratory findings,

iii) Risk factors for HIV infection,

iv) Whether the individual is known to have previously tested positive for antibodies to HIV,

v) Reason for testing, and

vi) Whether counseling and/or sex partner referral has taken place or whether assistance is needed from the Local Health Authority or the Department.

C) On or after July 1, 1999, for HIV infection in cases not clinically diagnosed or treated as AIDS by the reporting physician:

i) A patient code number derived from demographic information and elements of the individual's name and/or other identifying information, age, date of birth, age at diagnosis, current status (date of death, race/ethnicity, sex, country of birth, residence at diagnosis, facility where diagnosis of HIV was established;

ii) Patient risk history;

iii) Laboratory results of HIV antibody tests, HIV detection tests, or immunologic laboratory tests;

iv) Information concerning the presence and method of diagnosis of AIDS indicator diseases;

v) For reports submitted by health care facilities, the name and telephone number of the individual completing

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

the form, if different from the physician;

vi) Information concerning treatment services and referrals and, for women, information on both the current pregnancy status and births after 1977, and for perinatal cases, information about birth history;

vii) Whether the individual has had any invasive procedures performed on him or her and, if so, the types of invasive procedures and the name(s) of the health care provider(s) who performed those invasive procedures;

viii) Whether the individual is a health care provider and, if so, the type of health care provider and whether the individual has performed invasive procedures; and

ix) Whether post-test counseling and/or sex/needle sharing partner referral has taken place or whether assistance is needed from the Local Health Authority or the Department.

D) All reporting sources are required to maintain a system permitting the patient code number to be linked to a specific individual for purposes of additional follow-up if necessary.

E) The Department will monitor HIV case reports to determine the effectiveness of the HIV surveillance system. Beginning on July 1, 1999, the Department will collect data to be evaluated beginning on January 1, 2001 to determine whether the following criteria are satisfied:

i) All elements of the patient identification code are complete in at least 90% of all reported cases;

ii) Patient risk information is provided in 90% of case reports and the remaining information in the case report is complete in 85% of the case reports, after epidemiologic follow-up is completed;

iii) No more than 5% of cases in the HIV databases are duplicate reports;

iv) 95% of providers will be able to link a patient code number to a case report when additional follow-up is necessary; and

v) A system to link at least 95% of the patient code numbers for reported cases of HIV infection to the subject of the case report, maintained by at least 95% of providers. For purposes of evaluation, the Department may review but may not copy records held by the reporting source. The evaluation shall not identify by name or other identifying information any provider or subject of a case report.

F) The Department shall complete its evaluation of the system no later than July 1, 2001. If, at the conclusion of the evaluation, the Department has determined that the criteria described in subsection (a)(3)(E) of this Section have not

been met, all subsequently reported cases of HIV infection not clinically diagnosed or treated as AIDS by the reporting physician shall include all of the information required in subsection (a)(3)(C) of this Section, except that the report shall include the test subject's name and the patient code number specified in subsection (a)(3)(C)(i) will not be generated by the provider.

4) Syphilis, gonorrhea and chlamydia case and laboratory reports in cities having a population of 500,000 or more ~~over~~ shall be made on a form furnished by the Local Health Authority. In all other cases, the report shall be made on a form furnished by the Department. The report shall state the name, address and telephone number of the physician, the date of the report, as well as the following information, as available:

A) The individual's name, address, telephone number, age, birthdate, race/ethnicity, sex, marital status, pregnancy status,

B) The diagnosis, diagnostic classification, and any laboratory findings,

C) The amount and type of treatment, including preventive treatment, that ~~which~~ the individual is receiving, has received or will receive, and whether treatment has been completed, and

D) The type of treatment facility.

b) Every laboratory and blood bank, through its Director, shall report each case in which the laboratory or blood bank performed a test for an STD that ~~which~~ concluded with a reportable laboratory result.

1) The STD laboratory report shall be mailed within five ~~(5)~~ days after such test result.

2) If the reporting source is located in a county or city governed by a full-time Local Health Authority, the STD laboratory report shall be made to that health authority. For syphilis, gonorrhea and chlamydia test subjects in jurisdictions not covered by a Local Health Authority but by a Designated Agency, such reports shall be made to that Designated Agency. In all other cases, the STD laboratory report shall be made directly to the ~~Illinois~~ Department ~~of Public Health~~.

3) For HIV laboratory tests ~~results~~, the report shall be made on a form furnished by the Department. The report shall state the name and address of the laboratory or blood bank, the date of the report, as well as the following information, as available:

A) The name, address and telephone number of the physician or other person who submitted the specimen for testing (not applicable to blood banks),

B) The individual's patient code number as provided by the physician ~~city--of-residence~~, age, race/ethnicity, and sex, and

C) The date the tests were performed, the laboratory results,

and the method employed.

4) For CD4+ lymphocyte counts less than 200 CD4+ cells per microliter or less than 14 percent of total lympocytes, the report shall be made on a form furnished by the Department. The report shall state the name and address of the laboratory or blood bank, the date of the report, as well as the following information, as available:

A) The name, address and telephone number of the physician or other person who submitted the specimen for testing (not applicable to blood banks);

B) The individual's name, address, telephone number, age, race/ethnicity, sex, as provided by the physician or other person who submitted the specimen for testing by a laboratory;

C) The date the tests were performed, the laboratory results, and the method employed.

5)~~4)~~ Syphilis, gonorrhea and chlamydia laboratory reports in cities having a population of 500,000 or more ~~over~~ shall be made on a form furnished by the Local Health Authority. In all other cases, the report shall be made on a form furnished by the Department. The report shall state the name and address of the laboratory or blood bank, the date of the report, as well as the following information, as available:

A) The individual's name, address, telephone number, age, race/ethnicity, sex, marital status, or patient code number as provided by the physician or other person who submitted the specimen for testing by a laboratory,

B) The name, address and telephone number of the physician or other person who submitted the specimen for testing (not applicable to blood banks), and

C) The date the test was performed, the laboratory results, and the method employed.

6)~~5)~~ In addition to the above reporting requirements:

A) If the subject of the test is under 12 ~~eleven (11)~~ years of age, any reactive or positive test results shall be reported to the Department by telephone immediately or as soon as Department business hours permit at 888-375-9613 for HIV/AIDS test results and 217-782-2747 for all other STD test results. ~~, at 800/252-8989,~~

B) If any culture that is positive for gonorrhea is determined to be resistant to antibiotics, the test results shall be reported by telephone immediately, or as soon as business hours permit, to the Local Health Authority, Designated Agency or the Department, as appropriate.~~,~~

C) Every laboratory and blood bank shall report the total number of tests performed for STDs each week. Such report shall be made to the Local Health Authority ~~local health authority~~, Designated Agency ~~designated--agency~~ or the

Department, as appropriate.

c) Physicians are not required to file HIV case reports for:
   1) Patients known to reside outside of Illinois; or
   2) Persons tested at IDPH designated anonymous test sites; or
   3) Participants in research projects approved by an institutional review board when the research is not primarily intended to provide medical treatment to participants and is conducted under the following conditions:
      A) all personal identifiers are removed from the specimen before testing, or
      B) the specimen cannot be linked to the individual from whom the specimen was collected, or
      C) positive HIV results are due to vaccine administration.

d)~~c)~~ All persons required to report pursuant to this Part shall maintain the strict confidentiality of all information and records relating to known or suspected cases of STDs in accordance with Section 693.100 and 77 Ill. Adm. Code 697.140.

e)~~d)~~ For each report of AIDS that ~~which~~ it receives, pursuant to the provisions of this Section, the Local Health Authority shall forward a copy of the report to the Department's AIDS Registry System, within seven ~~(7)~~ days after receiving the report (see See Section 697.210 of the AIDS Confidentiality and Testing Code (77 Ill. Adm. Code 697)). The Local Health Authority shall assure the completeness of the report form. The Local Health Authority shall record the reporting source on the case report form, as available.

f)~~e)~~ A Local Health Authority shall forward to the Department a copy of each HIV report which it receives pursuant to the provisions of this Section, within seven ~~(7)~~ days after receiving such report.

g)~~f)~~ A Local Health Authority or Designated Agency shall submit to the Department, on forms supplied by the Department, summary information on the reportable laboratory results for syphilis, gonorrhea and chlamydia that ~~which~~ it receives pursuant to the provisions of this Section, within seven ~~(7)~~ days after receiving such results.

h)~~g)~~ A Local Health Authority or Designated Agency that ~~which~~ receives a syphilis laboratory report with a patient code number shall contact the test subject's physician for information identifying that individual, within ~~twenty-four--(~~ 24~~)~~ hours after receiving such report. The Department shall assume this responsibility within jurisdictions not covered by a Local Health Authority or Designated Agency.

i)~~h)~~ A Local Health Authority that ~~which~~ receives an HIV laboratory report from a physician, laboratory or blood bank for an individual age three through 21 ~~twenty-one~~ shall contact the physician listed in the report to obtain the individual's name and address, in order to comply with Section 697.400 of the AIDS Confidentiality and Testing Code (77 Ill. Adm. Code 697). The Department shall assume this responsibility within jurisdictions not covered by a Local Health Authority. The physician shall provide this information to the Local Health Authority

or the Department unless the test subject is not enrolled in a public or private primary or secondary school. The physician shall contact the Local Health Authority or the Department if the physician learns that the test subject has enrolled in school at any subsequent date.

(Source: Amended at 22 Ill. Reg. ~~22026~~, effective DEC 1 1998)

Section 693.40 Contact Interview and Investigation

a) A Local Health Authority, Designated Agency or the Department, where applicable, shall initiate the contact interview and investigation process under any of the following circumstances:
   1) Upon receipt of an STD, AIDS or HIV report from a physician or laboratory,
   2) When the Local Health Authority, Designated Agency or the Department knows or has reason to know, based on medical or epidemiologic information, that a person within its jurisdiction may be infected with or have been exposed to an STD or HIV, or
   3) For reports of health care providers with AIDS received by the Department prior to October 4, 1991, the Department shall interview and investigate such cases in priority order established by the Department, and provide appropriate contact notification, in accordance with the provisions of subsections ~~Section~~ 693.40(b)(3)(B)(i) through (ix) of this Part. The Department shall interview the health care provider or the provider's estate. Coworkers, family members or others may be interviewed, if necessary, to determine the risk of transmission or to identify contacts.

b) For cases of AIDS or HIV infection, the contact interview and investigation process shall include the following:
   1) Contact interview and investigation services shall be provided only by counselors who have completed a course of training which included instruction in the following:
      A) The etiology and transmission of HIV, including associated risk behavior and activities, and patient profiles of persons at significant risk of HIV infection;
      B) The natural history and progression of HIV infection;
      C) Methods for preventing transmission of HIV infection;
      D) Principles and techniques of counseling, including demonstration of interviewing and counseling skills needed for epidemiologic management of HIV infected persons, and critiqued role playing, psychologic assessment and crisis intervention;
      E) Principles and techniques of contact investigation and referral; and
      F) Principles of communicable diseases.
   2) For the interview and investigation process concerning sex and

needle sharing contacts:

A) All cases of AIDS or HIV infection identified to health authorities shall be offered the assistance of health professionals in locating and referring sex and needle-sharing contacts for counseling and testing, with the consent of the infected person. All persons refusing such assistance shall be strongly encouraged to notify their previous sex and needle-sharing contacts of their possible exposure to HIV, and to refer such contacts for counseling and testing.

B) Cases of AIDS or HIV infection shall be asked to identify their sex and needle-sharing contacts for the preceding twelve month period. The counselor shall discuss the specific nature of each contact with the client to determine the likelihood of HIV transmission based on the type of sexual or needle-sharing practice involved and the counselor's knowledge of risk factors.

C) Those contacts determined to be at significant risk of infection, in the professional judgment of the counselor, based on the type of sexual or needle-sharing practice involved and the counselor's knowledge of risk factors, shall be investigated. Investigation shall be conducted on contacts for whom sufficient information to identify the person is available, such as first and last name, street address or telephone number.

D) The counselor may prioritize the order in which contacts are to be investigated. The counselor shall provide first priority to those contacts who (based ~~again~~ on the counselor's professional judgement), except for contact notification, may not have reason to suspect they may be infected because the counselor has no information that the contacts:

i) are aware of having engaged in behavior likely to result in exposure; and/or;

ii) are knowledgeable about the types of behavior carrying such risks.

E) Persons choosing to self-refer their contacts shall receive intensive individualized instruction and counseling in methods to provide this notification and referral.

F) Contacts to persons with HIV infection, identified through the contact interview and investigative process, shall be counseled, confidentially and in person, regarding the possibility of infection, methods to prevent the spread of the infection, and services available from public health agencies. Such persons shall also be offered testing to determine infection status.

G) If such person is legally unable to agree to counseling due to age or legal incompetence, consent and participation in

counseling shall be requested of the individual's parent or legal guardian. If such person is legally able to agree to, but appears to be incapable of understanding and competently acting on such counseling, in the professional judgment of the counselor, participation in counseling shall be requested of a parent or other person chosen by the client.

H) ~~All--records--regarding--contacts--to--cases--of-AIDS-or-HIV infection,-and-all-information-collected--in--investigations of--contacts--to-HIV-infection-shall-be-maintained-until-the local-Health-Authority,-Designated-Agency-or-the--Department is-able-to-document-that-counseling-has-been-provided-to-the contact--or-document-that-all-attempts-to-locate-the-contact have-been-unsuccessful.--In-no-case-shall--such--records--be maintained--for-a-period-to-exceed-six-months.--Such-records shall-be-confidential-and-shall-at-all-times--be--maintained in-the-same-manner-as-those-maintained-for-reported-cases-of AIDS.--After--six--months,--such--records-shall-be-destroyed completely-by-shredding-or--another--form--of--obliteration. (See-Section-693.100(c)-and-77-Ill.-Adm.-Code-697.140.)~~

3) For the interview and investigation process concerning health care contacts:

A) Patients

i) All cases in which the individual has had invasive procedures performed on him or her shall be provided an explanation of the potential risks of HIV transmission to health care providers during the performance of invasive procedures, and the legal requirements for notification of the health care providers who have performed invasive procedures on that individual;

ii) The individual shall be asked to identify the specific invasive procedures that ~~which~~ had been performed on him or her along with the name of the facility or location at which the procedure was performed, and the name, address and telephone number of the health care provider who performed the procedure;

iii) The individual shall be offered the opportunity to self-notify those health care providers within 45 days, in accordance with the notification procedures described in Section 693.45 of this Part. If the individual declines the opportunity to self-notify his or her health care providers, or fails to do so in accordance with the requirements of this Part, the case shall be referred to the Department for notification of contacts. The Department's notification of contacts shall be conducted in a timely manner;

B) Health Care Providers

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

i) All cases in which the individual is a health care provider or has worked as a health care provider shall be interviewed to determine whether the type of health care practiced by the individual involves the performance of invasive procedures, and whether the individual has or is likely to have performed invasive procedures;

ii) If the individual's type of health care practice involves the performance of invasive procedures but the individual has not or is not likely to have performed invasive procedures, he or she shall be provided with written information concerning the use of universal precautions and the recommendations of the Centers for Disease Control and Prevention concerning the prevention of HIV transmission in the health care setting. The individual shall also be advised to refrain from performing exposure-prone invasive procedures, except in accordance with the recommendations of an expert review panel that ~~which~~ has been convened pursuant to the Centers for Disease Control and Prevention's ~~Control's~~ "Recommendations for Preventing Transmission of HIV and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures" (see Section 693.15(c)(5) of this Part);

iii) If the individual has or is likely to have performed invasive procedures the Local Health Authority shall refer the case to the Department for risk assessment and follow-up;

iv) The Department shall interview the health care provider or the provider's estate to complete the investigation and assess the potential risk of HIV transmission from the provider to his or her patients, based on the provider's practice and the types and frequencies of invasive procedures performed. Others may be interviewed as necessary to complete the investigation and assess the potential risk of HIV transmission from the provider to his or her patients;

v) The Department shall provide the health care provider with an explanation of the potential risks of HIV transmission to patients during the performance of invasive procedures, and the legal requirements for notification of patients whom the Department determines may have been at risk of HIV transmission from the health care provider;

vi) If the invasive procedures performed by the health care provider were not exposure-prone invasive procedures, and no other potential risk of transmission was identified by the Department, the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

entity performing the investigation process shall provide the health care provider with information concerning the use of universal precautions and the recommendations of the Centers for Disease Control and Prevention concerning the prevention of HIV transmission in the health care setting. The health care provider shall also be advised to refrain from any future performance of exposure-prone invasive procedures, except in accordance with the recommendations of an expert review panel convened pursuant to the Centers for Disease Control and Prevention's ~~Control's~~ "Recommendations for Preventing Transmission of HIV and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures" (see Section 693.15(c)(5) of this Part);

vii) If any of the invasive procedures performed by the health care provider were exposure-prone invasive procedures, or the Department identifies any other potential risk of transmission to patients, the Department shall advise the health care provider that such patients must be notified of their potential risk of exposure to HIV. The health care provider shall be given the opportunity to submit any information and comments to the Department concerning such notification, and shall be offered the opportunity to self-notify his or her patients within 45 days, in accordance with the notification procedures described in Section 693.45 of this Part;

viii) If the health care provider declines the opportunity to self-notify his or her patients, or fails to do so in accordance with the requirements of this Part, he or she shall provide the Department with complete and immediate access to any records that ~~which~~ identify or may lead to the identification of his or her patients and the actual health care that ~~which~~ was rendered. The Department shall review but shall not copy or seize ~~but--shall--not--copy--or--seize~~ the provider's records. The Department shall identify and notify in a timely manner all patients who received exposure-prone invasive procedures or have otherwise been determined by the Department to have been at risk for HIV transmission;

ix) The health care provider shall also be advised to discontinue performance of exposure-prone invasive procedures except in accordance with the recommendations of an expert review panel convened pursuant to the Centers for Disease Control and Prevention's ~~Control's~~ "Recommendations for Preventing

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Transmission of HIV and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures" (see Section 693.15(c)(5) of this Part).

c) For cases of syphilis, gonorrhea or chlamydia, the contact interview and investigation process shall include the following:

1) Contact interview and investigation services shall be provided only by counselors who have completed a course of training which included instruction in the following:
   A) The etiology and transmission of STDs,
   B) The natural history and progression of STD infection,
   C) High or increased risk behavior and activities, including patient profiles of persons at significant risk for acquiring STDs,
   D) Methods for preventing and treating STD infection,
   E) Principles and techniques of counseling, including demonstration of interviewing and counseling skills needed for epidemiologic management of STD patients, and critiqued role playing, and
   F) Principles and techniques of contact investigation and referral.
2) All persons diagnosed with early syphilis or antibiotic-resistant gonorrhea or any person treated for gonorrhea at a clinic of the Local Health Department shall be interviewed by the Local Health Authority, Designated Agency or the Department, where applicable. "Early syphilis" means primary, secondary or early latent syphilis of less than one year's duration.
3) All persons diagnosed with chlamydia and persons diagnosed with gonorrhea in the private medical sector shall be interviewed as resources permit and within the discretion of the Local Health Authority, Designated Agency or Department, where applicable.
4) All cases interviewed shall be asked to provide the names and any available identifying information regarding ~~on~~ their sex contacts. Persons refusing to name their sex contacts shall be strongly encouraged to self-refer such contacts for testing and treatment, if necessary.
5) Those contacts determined by the counselor to be at significant risk of infection, based on high or increased risk behavior and activities, shall be investigated.
6) Interviewing and counseling of STD cases and contacts shall be conducted in person, in a private manner, and shall be documented on epidemiologic records furnished by the Department.
7) Counselors shall follow the guidelines and standards described in Section 697.300 of the AIDS Confidentiality and Testing Code (77 Ill. Adm. Code 697). ~~615:360(s) through (cc) of the Local Health Departments Program Standards Code (77 Ill. Adm. Code 615).~~
8) All records regarding cases of STDs, contacts to cases of STDs and all information collected in investigations and interviews pursuant to this Section shall be confidential, and shall at all

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

times be maintained in the same manner as those maintained for reported cases of STDs.

(Source: Amended at 22 Ill. Reg. 12524, effective DEC 5 1998)

Section 693.100 Confidentiality

a) *All information and records held by the Department and its authorized representatives relating to known or suspected cases of sexually transmissible diseases shall be strictly confidential and exempt from inspection and copying under the Freedom of Information Act. The Department and its authorized representatives shall not disclose information and records held by them relating to known or suspected cases of sexually transmissible diseases publicly or in any action of any kind in any court or before any tribunal, board or agency.* ~~(Ill. Rev. Stat. 1989, ch. 111, par. 207, as amended by Section 11 of the Act).~~ (Section 8(a) of the Act.)

b) *Such information shall not be released or made public* by the Department or its authorized representatives, by a court or parties to a lawsuit upon revelation by subpoena, or *by a court conducting proceedings authorized by subsection (c) of Section 6 of the Act, except that release of such information may be made under the following circumstances* ~~(Section 8(a) of the Act.)~~ ~~*Such information shall not be released or made public by the Department or its authorized representatives, by a court or parties to a lawsuit upon revelation by subpoena or by a court conducting proceedings authorized by subsection (c) of Section 6 of the Act, except that release of such information may be made under the following circumstances*~~:

1) *When made with the consent of all persons to which the information applies* (Section 8(a)(1) of the Act),
2) *When made for statistical purposes and medical or epidemiologic information is summarized so that no person can be identified and no names are revealed* (Section 8(a)(2) of the Act),
3) *When made to medical personnel, appropriate state agencies,* such as the Department of Children and Family Services, or *courts of appropriate jurisdiction to enforce the provisions of the Act and this Part* (Section 8(a)(3) of the Act),
4) *When made to persons determined by the Department to be or have been at potential risk of HIV transmission pursuant to Section 5.5 of the Act* (Section 8(a)(4) of the Act),
5) When authorized by the HIV/AIDS Registry System regulations (see **See** 77 Ill. Adm. Code 697.210),
6) When authorized by the AIDS Confidentiality Act (see **See** 77 Ill. Adm. Code 697.140),
7) When made to a school principal pursuant to Section 697.400 of the HIV/AIDS Confidentiality and Testing Code (see **See** 77 Ill. Adm. Code 697.400).

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

~~8) When disclosure is made pursuant to a subpoena, such information shall be sealed by the court from further examination, except as deemed necessary by the court to reach a decision, unless otherwise agreed to by all parties (Section 8(b) of the Act).~~

c) A court hearing a request for the issuance of a warrant as authorized in subsection (c) of Section 6 of the Act shall conduct such proceedings in camera. A record shall be made of authorized proceedings but shall be sealed, impounded and preserved in the records of the court, to be made available to the reviewing court in the event of an appeal. (Section 8(c) of the Act~~.~~)

d) No employee of the Department or its authorized representatives shall be examined in a civil, criminal, special or other proceeding concerning the existence or contents of pertinent records of a person examined or treated for a sexually transmissible disease by the Department or its authorized representative pursuant to the provisions of the Act, or concerning the existence or contents of such reports received from a private physician or private health care facility, pursuant to the provisions of the Act, without the consent of the person examined and treated for such a disease, except in proceedings under Sections 6 and 7 of the Act. (Section 8(d) of the Act~~.~~)

e) All information and records held by the Department and Local Health Authorities pertaining to health care contact risk assessment and notification activities shall be strictly confidential and exempt from copying and inspection under the Freedom of Information Act. Such information and records shall not be released or made public by the Department or Local Health Authorities, and shall not be admissible as evidence, nor discoverable in any action of any kind in any court or before any tribunal, board, agency or person and shall be treated in the same manner as the information and those records subject to the provisions of Part 21 of the Code of Civil Procedure except under the following circumstances (Section 5.5 of the Act):

1) When disclosure is made with the written consent of all persons to whom this information pertains;

2) When authorized under Section 8 of the Act to be released under court order or subpoena pursuant to Section 12-16.2 of the Criminal Code of 1961; or

3) When disclosure is made by the Department for the purpose of seeking a warrant authorized by Sections 6 and 7 of the Act. Such disclosure shall conform to the requirements of subsection (a) of Section 8 of the Act.

f) Any person who knowingly or maliciously disseminates any information or report concerning the existence of any disease under Section 5.5 of the Act is guilty of a Class A Misdemeanor. (Section 5.5(d) of the Act)

(Source: Amended at 22 Ill. Reg. 22026, effective DEC 1 1998)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Illinois Home Health Agency Code

2) Code Citation: 77 Ill. Adm. Code 245

3) Section Numbers: 245.50 — Adopted Action: Amendments

4) Statutory Authority: Home Health Agency Licensing Act [210 ILCS 55]

5) Effective date of amendments: December 10, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain any incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.

9) Notice of Proposal was Published in Illinois Register: April 17, 1998 - 22 Ill. Reg. 6825

10) Has JCAR issued a Statement of Objections to this rulemaking? No

11) Difference between proposal and final version:

The following changes were made in response to comments received during the first notice or public comment period: None

The following changes were made in response to comments and suggestions of the JCAR: None

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? JCAR did not request any substantive changes.

13) Will these amendments replace emergency amendments currently in effect? No

14) Are there any other amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
245.72	Amendment	22 Ill. Reg. 6109

15) Summary and purpose of the amendments/rules: Section 245.50 is being

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

amended to change, from seven to 14 days, the time period by which verbal medication orders must be signed by the patient's physician or podiatrist. This change will provide consistency with requirements for other orders, which require a physician's or podiatrist's signature within 14 days. The requirements for clinical records are being amended to change, from 60 to 62 days, the time period for sending written summary reports to the patient's physician or podiatrist. This change is for consistency with federal requirements.

16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Gail DeVito
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-2043
rules@idph.state.Il.us

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 245
ILLINOIS HOME HEALTH AGENCY CODE

SUBPART A: GENERAL PROVISIONS

SUBPART B: OPERATIONAL REQUIREMENTS

SUBPART C: LICENSURE PROCEDURES

AUTHORITY: Implementing and authorized by the Home Health Agency Licensing Act [210 ILCS 55].

SOURCE: Adopted at 2 Ill. Reg. 31, p. 77, effective August 2, 1978; emergency amendment at 3 Ill. Reg. 38, p. 314, effective September 7, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 40, p. 153, effective October 6, 1979; emergency amendment at 4 Ill. Reg. 18, p. 129, effective April 21, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 40, p. 56, effective September 23, 1980; emergency amendment at 6 Ill. Reg. 5855, effective April 28, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11006, effective August 30, 1982; amended at 7 Ill. Reg. 13665, effective October 4, 1983; codified at 8 Ill. Reg. 16829; amended at 9 Ill. Reg. 4836, effective April 1, 1985; amended at 14

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Ill. Reg. 2382, effective February 15, 1990; amended at 15 Ill. Reg. 5376, effective May 1, 1991; amended at 18 Ill. Reg. 2414, effective January 22, 1994; emergency amendments at 20 Ill. Reg. 488, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 3273, effective February 15, 1996; amended at 20 Ill. Reg. 10033, effective July 15, 1996; amended at 22 Ill. Reg. 3948, effective February 13, 1998; amended at 22 Ill. Reg. 2205, effective DEC 10 1998.

SUBPART B: OPERATIONAL REQUIREMENTS

Section 245.50 Services

a) Services Provided
   1) Each agency shall provide skilled nursing service and at least one other home health service on a part-time or intermittent basis. The basic skilled nursing service shall be provided directly by agency staff. Other home health services may be provided by agency staff directly or ~~provided--under--arrangement~~ through a contractual purchase of services. Additional skilled specialty nursing services and use of additional nursing staff to meet changes in caseload may be provided by contract. All services shall be provided in accordance with the orders of the patient's physician or podiatrist, under a plan of treatment established by such physician or podiatrist, and under the supervision of agency staff.
   2) The agency shall state in writing what services will be provided directly and what services will be provided under contractual arrangements.
   3) Services provided under contractual arrangements shall be through a written agreement that includes but is not limited to the following:
      A) Services to be provided.
      B) Provision for adherence to all applicable agency policies and personnel requirements, including requirements for initial health evaluations and employee health policies.
      C) Designation of full responsibility for agency control over contracted services.
      D) Procedures for submitting clinical and progress notes.
      E) Charges for contracted services.
      F) Statement of responsibility of liability and insurance coverage.
      G) Period of time in effect.
      H) Date and signatures of appropriate authorities.
      I) Provision for termination.
b) Acceptance of Patients. Patient acceptance and discharge policies shall include but not be limited to the following:
   1) Persons shall be accepted for health service on a part-time or intermittent basis upon a plan of treatment established by the patient's physician or podiatrist. This plan shall be in ~~reduced to~~ writing within 14 days.
   2) Prior to acceptance, the person shall be informed of the agency's charges for the various services that it offers.
   3) No person shall be refused service because of age, race, color, sex, marital status, national origin or source of payment. An agency is not required to accept a patient whose source of payment is less than the cost of the service.
   4) Patients are accepted for treatment on the basis of a reasonable expectation that the patient's medical, nursing, and social needs can be met adequately by the agency in the patient's place of residence.
   5) When services are to be terminated by the home health agency, the patient is to be notified three working days in advance of the date of termination, stating the reason for termination. This information shall be documented in the clinical record. When indicated, a plan shall be developed or a referral made for any continuing care.
   6) Services shall not be terminated until such time as the registered nurse, the appropriate therapist, or both, in consultation with the patient's physician or podiatrist, deem it appropriate or arrangements are made for continuing care.
c) Plan of Treatment
   1) Skilled nursing and other home health services shall be in accordance with a plan based on the patient's diagnosis and assessment of the patient's immediate and long-range needs and resources. The plan of treatment is established in consultation with the home health services team, which includes the patient's physician or podiatrist, pertinent members of the agency staff, the patient and members of the patient's family. The plan of treatment shall include:
      A) Diagnoses.
      B) Functional limitations and rehabilitation potential.
      C) Expected outcomes for the patient.
      D) The patient's physician's ~~physician~~ or podiatrist's ~~podiatrist~~ regimen of:
         i) Medications.
         ii) Treatments.
         iii) Activity.
         iv) Diet.
         v) Specific procedures deemed essential for the health and safety of the patient.
         vi) Mental status.
         vii) Frequency of visits.
         viii) Equipment required.
         ix) Instructions for timely discharge or referral.
      E) The patient's physician's or podiatrist's signature and date.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

2) Consultation with the patient's physician or podiatrist on any modifications in the plan of treatment deemed necessary shall be documented, and the patient's physician's or podiatrist's signature shall be obtained within 14 days after any modification of the medical plan of treatment.
3) The plan shall be reviewed by the home health services team every 62 days or more often should the patient's condition warrant.
4) An updated plan of treatment shall be given to the patient's physician or podiatrist for review, for any necessary revisions, and for signature every 62 days or more often as indicated.

d) Patient Care Plan
1) Home health services from members of the agency staff as well as those under contractual arrangements shall be given in accordance with the plan of treatment and the patient care plan. The patient care plan shall be written by appropriate members of the home health services team based upon the plan of treatment and an assessment of the patient's needs, resources, family and environment. The initial assessment is to be made by a registered nurse. Assessment by other members of the health services team shall be made on orders of the patient's physician or podiatrist or by request of a registered nurse.
2) The patient care plan shall be updated as often as the patient's condition indicates. The plan shall be maintained as a permanent part of the patient's record. The patient care plan shall indicate:
A) Patient problems.
B) Patient's goals, family's goals, service goals.
C) Service approaches to modify or eliminate problems.
D) The staff responsible for a given element of service.
E) Anticipated outcome of service approach with an estimated time frame for completion.
F) Potential for discharge from service.

e) Clinical Records. Each patient shall have a clinical record, identifiable for home health services and maintained by the agency in accordance with accepted professional standards. Clinical records shall contain:
1) Appropriate identifying information for the patient, household members and caretakers, medical history and current findings.
2) A plan of treatment signed by the patient's physician or podiatrist.
3) A patient care plan ~~for the patient~~ developed by the home health services team that ~~which~~ is in accord with the patient's physician's or podiatrist's plan of treatment.
4) A noted medication list with dates reviewed, revised and date sent to the patient's physician or podiatrist.
5) Initial and periodic patient assessments by the registered nurse, which include documentation of the patient's functional status and eligibility for service.

6) Assessments made by other members of the home health services team.
7) Signed and dated clinical notes for each contact, which are written the day of service and incorporated into the patient's clinical record at least weekly.
8) Reports on all patient home health care conferences.
9) Reports of contacts with the patient's physician or podiatrist by patient and staff.
10) Indication of supervision of home health services by the supervising nurse, a registered nurse, or other members of the home health services team.
11) Written summary reports sent to the patient's physician or podiatrist every 6260 days containing home health services provided, the patient's status, recommendations for revision of the plan of treatment and the need for continuation or termination of services noted.
12) Written and signed confirmation of the patient's physician's or podiatrist's interim verbal orders.
13) A discharge summary giving a brief review of service, patient status, reason or reasons for discharge and plans for post discharge needs of the patient.
14) A copy of appropriate patient transfer information, when requested, if the patient is transferred to another health facility or health agency.
15) Each agency shall have a written policy on records procedures and shall retain records for a minimum of five years beyond the last date of service provided. These procedures may include that the agency will utilize and maintain faxed copies of records from licensed professionals, rather than original records, provided that the faxed copies will be maintained on nonthermal paper and that the original records will be maintained for a period of five years by the professional who originated the records. If that professional is providing services through a contract with the agency, then the contract must include that the original records must be maintained for a period of five years by the professional.
16) Those agencies which are subject to the Local Records Act should note that *except as otherwise provided by law, no public record shall be disposed of by any officer or agency unless the written approval of the appropriate Local Records Commission is first obtained.* (Section 7 of the Local Records Act [50 ILCS 205/7])
17) Each agency shall have a written policy and procedure for the protection of confidentiality of patient records, which explains the use of records, removal of records and release of information.

f) Drugs and Biologicals. The agency shall have written policies governing the supervision and administration of drugs and biologicals, which shall include but not be limited to the following:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) All orders for medications to be given shall be dated and signed by the patient's physician or podiatrist.
2) All orders for medications shall contain the name of the drug, dosage, frequency, method or site of injection and permission from the patient's physician or podiatrist if the patient, the patient's family, or both are to be taught to give medications.
3) The agency's physician or podiatrist or registered nurse shall check all medicines a patient may be taking to identify possible ineffective drug therapy or adverse reactions, significant side effects, drug allergies, and contraindicated medications and shall promptly report any problem to the patient's physician or podiatrist.
4) All verbal orders for medication or change in medication orders shall be taken by the registered nurse, written, ~~and--reduced--to writing~~ and signed by the patient's physician or podiatrist within 14 ~~seven~~ days.
5) When any experimental drug, sera, allergenic desensitizing agent, penicillin or any other potentially hazardous drug is administered, the registered nurse administering such drugs shall have an emergency plan and any drugs and devices that may be necessary in the event of a drug reaction.

g) Evaluation. The home health agency shall have written policies and shall ~~is-required-to~~ make an overall evaluation of the agency's total program at least once a year. This evaluation shall be made by the Professional Advisory Group (or a committee of this group), home health agency staff, consumers, or representation from professional disciplines that are participating in the provision of home health services. The evaluation shall consist ~~consists~~ of an overall policy and administrative review and a clinical record review. The evaluation shall assess the extent to which the agency's program is appropriate, adequate, effective and efficient. Results of the evaluation shall be reported to and acted upon by those responsible for the operation of the agency and maintained separately as administrative records.

h) Policy and Administrative Review. As a part of the evaluation process the policies and administrative practices of the agency shall be ~~are~~ reviewed to determine the extent to which they promote patient care that is appropriate, adequate, effective and efficient. Mechanisms shall be ~~are~~ established in writing for the collection of pertinent data to assist in evaluation. The data to be considered may include but are not limited to: number of patients receiving each service offered, number of patient visits, reasons for discharge, breakdown by diagnosis, sources of referral, number of patients not accepted with reasons and total staff days for each service offered.

i) Clinical Record Review
1) At least quarterly, members of professional disciplines representing at least the scope of the agency's programs, shall review a sample of both active and closed clinical records to

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

assure that established policies are followed in providing services (direct, as well as those under contractual arrangement). This review shall ~~will~~ include, but not be limited to~~,-the-following~~:
A) Whether the patient care plan was directly related to the stated diagnosis and plan of treatment;
B) Whether the frequency of visits was consistent with the plan of treatment;
C) Whether the services could have been provided in a shorter span of time.
2) Clinical ~~There--is-a-continuing-review-of-clinical~~ records shall be reviewed continually for each 62 day period that a patient received home health services to determine the adequacy of the plan of treatment and the appropriateness of continuing home health ~~continuation-of~~ care.

(Source: Amended at 22 Ill. Reg. 22050, effective DEC 10 1998)

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Certificates of Title, Registration of Vehicles

2) Code Citation: 92 Ill. Adm. Code 1010

3) Section Number: Adopted Action:
1010.160 Amended

4) Statutory Authority: 625 ILCS 3/2-104(b)

5) Effective Date of Amendments: January 1, 1999

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 22 Ill. Reg. 15951 September 4, 1998

10) Has JCAR issued a Statement of Objections to these Rules? No

11) Differences between proposal and final version: Non-substantive

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these amendments replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rules: P.A. 90-665 now permits a lienholder who lawfully repossesses a vehicle to transfer the vehicle directly to a purchaser without having to first apply for title in the lienholder's name (except where the title has been lost). The rules reflect the Act's modification of certain information that is now required to be provided to the owner before the lienholder may sell the vehicle.

16) Information and questions regarding this adopted rule shall be directed to:

Carol Sudman, Assistant Counsel
Secretary of State
298 Howlett Bldg.
Springfield IL 62756
(217) 785-3094

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

csudman@ccgate.sos.state.il.us

The full text of the adopted amendments begins on the following page:

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1010
CERTIFICATES OF TITLE, REGISTRATION OF VEHICLES

SUBPART A: DEFINITIONS

SUBPART B: TITLES

SUBPART C: REGISTRATION

SUBPART D: REVOCATION, SUSPENSION AND CANCELLATION OF REGISTRATION

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

SUBPART E: SPECIAL PERMITS AND PLATES

SUBPART F: FEES

SUBPART G: MISCELLANEOUS

SUBPART H: SECOND DIVISION VEHICLES

AUTHORITY: Implementing Chapter 3 and authorized by Section 2-104(b) of the Illinois Vehicle Title & Registration Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 3 and 2-104(b)].

SOURCE: Filed and effective December 15, 1970; emergency amendment at 2 Ill. Reg. 25, p. 119, effective June 14, 1978, for a maximum of 150 days; amended at 3 Ill. Reg. 12, p. 76, effective March 23, 1979; amended at 3 Ill. Reg. 29, p. 123, effective July 20, 1979; amended at 4 Ill. Reg. 17, p. 247, effective April 11, 1980; emergency amendment at 4 Ill. Reg. 21, p. 99, effective May 14, 1980, for a maximum of 150 days; amended at 6 Ill. Reg. 2241, effective February 1, 1982; amended at 6 Ill. Reg. 11076, effective August 26, 1982; codified at 6 Ill. Reg. 12674; amended at 7 Ill. Reg. 1432, effective January 21, 1983; amended at 7 Ill. Reg. 1436, effective January 21, 1983; amended at 8 Ill. Reg. 5329, effective April 6, 1984; amended at 9 Ill. Reg. 3358, effective March 1, 1985; amended at 9 Ill. Reg. 9176, effective May 30, 1985; amended at 9 Ill. Reg. 12863, effective August 2, 1985; amended at 9 Ill. Reg. 14711, effective September 13, 1985; amended at 10 Ill. Reg. 1243, effective January 6, 1986; amended at 10 Ill. Reg. 4245, effective February 26, 1986; amended at 10 Ill. Reg. 14308, effective August 19, 1986; recodified at 11 Ill. Reg. 15920; amended at 12 Ill. Reg. 14711, effective September 15, 1988; amended at 12 Ill. Reg. 15193, effective September 15, 1988; amended at 13 Ill. Reg. 1598, effective February 1, 1989; amended at 13 Ill. Reg. 5173, effective April 1, 1989; amended at 13 Ill. Reg. 7965, effective May 15, 1989; amended at 13 Ill.

Reg. 15102, effective September 15, 1989; amended at 14 Ill. Reg. 4560, effective March 1, 1990; amended at 14 Ill. Reg. 6848, effective April 18, 1990; amended at 14 Ill. Reg. 9492, effective June 1, 1990; amended at 14 Ill. Reg. 19066, effective November 15, 1990; amended at 15 Ill. Reg. 12782, effective August 15, 1991; amended at 16 Ill. Reg. 12587, effective August 1, 1992; amended at 19 Ill. Reg. 11947, effective August 1, 1995; amended at 19 Ill. Reg. 16289, effective November 27, 1995; amended at 20 Ill. Reg. 11349, effective August 1, 1996; amended at 21 Ill. Reg. 8408, effective June 23, 1997; amended at 21 Ill. Reg. 13372, effective September 17, 1997; amended at 22 Ill. Reg. 8521, effective April 28, 1998; amended at 22 Ill. Reg. 22059, effective JAN 1 1999.

SUBPART B: TITLES

Section 1010.160 Repossession of Vehicles by Lienholders and Creditors

a) Pursuant to Section 3-114 of the Illinois Vehicle Code [625 ILCS 5/3-114] ~~a--consent--decree-entered-in-Gibson-v.-Dixon,-579-F.2d-1071-(7th-Cir.--1978)~~, the Secretary of State established these procedures to be followed by a lienholder to allow the lienholder to obtain a certificate of title for a repossessed vehicle for which the lienholder does not have an assignment of title by the owner.

b) Procedures

1) The lienholder (creditor) shall forward the following forms to the owner (debtor) of the vehicle at his/her/its last known address. The lienholder shall deliver or mail these forms. ~~by regular-mail-and-by-certified-mail,-return-receipt-requested~~

A) "Notice of Redemption", which shall include: ~~Intent--to--the Debtor~~"

i) the name of the owner of record and, in bold type at or near the top of the notice, a statement that the owner's vehicle was repossessed on a specified date for failure to make payments on the loan (or other reason);

ii) a description of the vehicle subject to the lien sufficient to identify it, i.e., year, make, model, and vehicle identification number;

iii) the right of the owner to redeem the vehicle;

iv) the lienholder's intent to sell or otherwise dispose of the vehicle after the expiration of 21 days from the date of mailing or delivery of the notice; and

v) the name, address, and telephone number of the lienholder from whom information may be obtained concerning the amount due to redeem the vehicle and from whom the vehicle may be redeemed under Section 9-506 of the Uniform Commercial Code.

B) "Affidavit of Defense to the Creditor" (required only for the repossession of a vehicle used primarily for personal,

family, or household purposes) that shall include:

i) the name of the lienholder, the name of the owner, and vehicle identification information, i.e., year, make, model, and vehicle identification number;

ii) space for the owner to state the defense claimed by the owner;

iii) an acknowledgement by the owner that the owner may be liable to the lienholder for fees, charges, and costs incurred by the lienholder in establishing the insufficiency or invalidity of the owner's defense; and

iv) notification that the "Affidavit of Defense to the Creditor" must be received by the lienholder no later than 21 days after the date of mailing or delivery of the "Notice of Redemption" in order to stop the transfer of title.

2) The debtor shall be allowed 21 days from the date of mailing of the "Notice of Redemption ~~Intent to the Debtor~~" to make restitution or to arrange a private settlement with the lienholder.

3) If the creditor obtains any "Affidavit of Defense to the Creditor," the creditor must apply to a court of competent jurisdiction to have the matter resolved. ~~The Office of the Secretary of State shall not issue a certificate of title to the creditor if the debtor returned any "Affidavit of Defense to the Creditor."~~ The Office of the Secretary of State shall not determine the merits of any debtor's "Affidavit of Defense to the Creditor."

4) If within 21 days from the date of the mailing of the "Notice of Redemption ~~Intent to the Debtor~~" the debtor neither submitted an "Affidavit of Defense to the Creditor" nor made restitution or any other agreement with the creditor, the creditor may apply for an Illinois Certificate of Title or assign the title to a third party purchaser to apply for title. The creditor or purchaser must submit the following documents:

A) An "Affidavit of Repossession" providing the following information: ~~stating that the "Notice of Intent to the Debtor" was mailed as prescribed above in subsection (b)(1) and that the creditor has not received from the debtor an "Affidavit of Defense to the Creditor."~~

i) that the vehicle was repossessed, and a description of the vehicle sufficient to identify it, i.e., year, make, model, and vehicle identification number;

ii) whether the vehicle has been damaged in excess of 33 1/3% of its fair market value (if the vehicle has been damaged in excess of 33 1/3% of fair market value, the lienholder shall apply for a salvage or junking certificate);

iii) that the owner and any other lienholder on record were given notice, the owner of record was given the "Affidavit of Defense to Creditor" (required only for repossession of a vehicle used primarily for personal, family, or household purposes), and no response was received within 21 days after mailing or delivery;

iv) that the interest of the owner was lawfully terminated or sold pursuant to the terms of the security agreement; and

v) the purchaser's name and address.

The "Affidavit of Repossession" shall be submitted on a form prescribed by the Secretary of State, and can be obtained from any Secretary of State facility or by writing to the Vehicle Services Department, Howlett Building, Springfield IL 62756.

~~B) A copy of the contract establishing the debt between the creditor and debtor. The contract must indicate the make of the vehicle and be signed by the debtor.~~

B) ~~C)~~ The outstanding Illinois Certificate of Title properly assigned to the purchaser. If the outstanding Illinois Certificate of Title is lost or otherwise not in the possession of the creditor, the creditor must apply for title in the creditor's own name, and attest on the "Affidavit of Repossession" that no third party is involved in the transaction and must also provide a copy of the contract establishing the debt between the creditor and debtor that specifically references the repossessed vehicle and is signed by the debtor.

~~D) A copy of the "Notice of Intent to the Debtor" and a copy of the signed return receipt form from the U.S. Postal Service. Alternatively, if the "Notice of Intent to the Debtor" was returned to the creditor stamped "undeliverable," the creditor shall submit either the original "Notice of Intent to the Debtor" with the original envelope or a copy of the "Notice of Intent to the Debtor" and a copy of the front and the back of the returned envelope.~~

C) ~~E)~~ An application for a Certificate of Title or a Certificate of Salvage. The application shall name the creditor or purchaser as the vehicle's new owner.

D) ~~F)~~ The applicant must submit the required $3 title fee and applicable registration fees if the creditor or purchaser intends to operate the vehicle. Applicants who do not intend to operate the vehicle upon the public highways need not apply for registration at the time of acquisition. (See 92 Ill. Adm. Code 1010.510).

E) Proof of payment of vehicle use tax, i.e., ST-556 or RUT-25.

~~e) Description of Forms~~

~~The forms described below can be obtained from any Secretary of State~~

~~facility or by writing to the Vehicle Services Department, Centennial Building, Springfield, Illinois 62756.~~

~~i)~~ ~~Notice of Intent to the Debtor~~

~~This form lists the names and addresses of the debtor and creditor; describes the vehicle by model year, make, vehicle identification number, and body type; identifies the creditor as a lienholder; advises the debtor that the creditor intends to apply to the Secretary of State for a Certificate of Title; advises the debtor that returning the enclosed "Affidavit of Defense to the Creditor" will stop the transfer of title unless the creditor obtains a court order directing the Secretary of State to issue a title to the creditor; advises the debtor that the debtor may be liable to the creditor for the cost of defending any invalid defense to the repossession.~~

~~2)~~ ~~Notice of Defense to the Creditor~~

~~This form identifies the parties and identifies the vehicle by model year, make, and vehicle identification number; states the defense claimed by the debtor; acknowledges that the debtor may be liable to the creditor for costs in defending an invalid defense to the repossession; and states that this form must be received by the creditor within 21 days of the date shown on the "Notice of Intent to the Debtor."~~

~~3)~~ ~~Affidavit of Repossession~~

~~This form states that the creditor is the lawful owner of the vehicle; identifies the vehicle by make, vehicle identification number, body type, model year, and title number; states that the vehicle is currently in the creditor's possession by reason of default on the part of the debtor; states that the "Notice of Intent to the Debtor" was mailed on a particular date and that 21 days have passed without receipt of the "Affidavit of Defense to the Creditor"; states that notice has been given to subordinate lienholders; and states whether the vehicle is damaged in excess of 25% of its fair market value.~~

c)~~d)~~ Miscellaneous

1) If the repossessed vehicle, on the date of repossession, is not damaged in excess of 33 1/3% ~~25%~~ of its fair market value, the lienholder or purchaser shall apply for a certificate of title. If the repossessed vehicle, on the date of repossession, is damaged in excess of 33 1/3% ~~25%~~ of its fair market value, the lienholder shall apply for a salvage certificate.

2) Role of the Office of the Secretary of State, Department of Vehicle Services

A) The Secretary shall not consider any ex parte allegations or assertions regarding the validity or invalidity of the creditor's claim to the vehicle or the debtor's asserted defenses to the repossession action.

B) If any "Affidavit of Defense to the Creditor" is received by the creditor, the creditor must apply to a court of competent jurisdiction to have the matter resolved and to have the court state which party is entitled to possession of the vehicle.

C) If the debtor has any complaint about the manner of notice or sends the "Affidavit of Defense to the Creditor" after the creditor has applied for a title, the debtor must apply to a court of competent jurisdiction to order the Secretary not to issue title to the creditor or to the creditor's assignee. If a new certificate of title has already been issued, the matter must be resolved by a court of competent jurisdiction.

3) "Date of mailing" means the date shown on the postmark.

(Source: Amended at 22 Ill. Reg. 22059, effective JAN 1 1999)

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Commercial Driver Training Schools

2) Code Citation: 92 Ill. Adm. Code 1060

3)

Section Number(s)	Adopted Action
1060.70	Amendment
1060.120	Amendment
1060.130	Amendment
1060.180	Amendment
1060.190	Amendment

4) Statutory Authority: Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-106(b)] and Chapter 6 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6].

5) Effective Date of Amendment: December 2, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 22 Ill. Reg. 14255 (July 31, 1998)

10) Has JCAR issued a Statement of Objections to this rule? No

11) Difference(s) between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace any emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rule: This rulemaking is being adopted to incorporate recently enacted legislation.

16) Information and questions regarding this adopted amendment shall be directed to:

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

Mark A. Novak
Assistant Counsel to the Secretary
Driver Services Department
2701 S. Dirksen Parkway
217-782-5356

The full text of the Adopted Amendments begins on the next page:

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1060
COMMERCIAL DRIVER TRAINING SCHOOLS

Section
1060.5 Definitions
1060.10 Unlicensed Person May Not Operate Driver Training School
1060.20 Requirements for School Licenses
1060.30 Driver Training Schools Names
1060.40 Refund of Application Fees
1060.50 School Locations and Facilities
1060.60 Driver Training School Student Instruction Record
1060.70 Driver Training School Course of Instruction
1060.80 Driver Training School Contracts
1060.90 Inspection of School Facilities
1060.100 Licenses
1060.110 Safety Inspection of Driver Training School Motor Vehicles
1060.120 Requirements to Obtain and Retain a Driver Training Instructor's License
1060.130 Examination for Driver Training Instructor
1060.140 Temporary Permit
1060.150 Driver Training School Responsibility for Employees
1060.160 Solicitation of Students and Pupils for Commercial Driver Training Instruction
1060.170 Hearings
1060.180 Teen Accreditation
1060.190 Denial, Cancellation, Suspension, and Revocation of Commercial Driver Training School's License and Instructor's License
1060.200 Commercial Driver's License and Endorsement Accreditation

AUTHORITY: Implementing Article IV of the Illinois Driver Licensing Law of the Illinois Motor Vehicle Code [625 ILCS 5/Ch. 6, Art. IV] and authorized by Section 2-104(b) of the Illinois Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed March 2, 1972; codified at 6 Ill. Reg. 12697; transferred from 23 Ill. Adm. Code 252.50 (State Board of Education) pursuant to Section 5-80(d) of the Illinois Administrative Procedure Act [5 ILCS 100/5-80(d)] and Section 6-411 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411] at 11 Ill. Reg. 1631, effective December 31, 1986; amended at 11 Ill. Reg. 17244, effective October 13, 1987; amended at 12 Ill. Reg. 13203, effective August 1, 1988; amended at 12 Ill. Reg. 19756, effective November 15, 1988; amended at 14 Ill. Reg. 8658, effective May 18, 1990; recodified at 17 Ill. Reg. 20006, effective November 3, 1993; amended at 18 Ill. Reg. 7788, effective May 9, 1994; amended at 20 Ill. Reg. 3861, effective February 14, 1996; amended at 22 Ill. Reg. 22069, effective DEC 2 1998.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

Section 1060.70 Driver Training School Course of Instruction

a) A minimum of 6 ~~six (6)~~ hours of classroom instruction and 6 ~~six (6)~~ hours of behind-the-wheel instruction must be offered to each student who enrolls in any driver training school. If a student declines the classroom instruction, the school shall secure a signed statement from the student on forms prescribed by the Department, wherein such student states that he has been offered the 6 ~~six (6)~~ hours of classroom instruction and declines the instruction. Such statements shall be kept with the student's instruction records.

b) Classroom instruction shall be made available at least once each calendar month for students currently enrolled in the school and shall include instruction in safe driving practices in the operation of motor vehicles.

c) The minimum of 6 ~~six (6)~~ hours of behind-the-wheel instruction shall consist of actual driving practice while in a motor vehicle. Instruction given while the vehicle is parked shall not be recorded or be considered as classroom instruction. Behind-the-wheel instruction must only be given in a motor vehicle owned or leased by the Driver Training School ~~driver training school~~ which has been safety inspected by the Illinois Department of Transportation and has insurance which has been certified by the Department. If a student declines the behind-the-wheel instruction, the school shall secure a signed statement from the student, on forms prescribed by the Department, wherein such student states he has been offered the 6 hours of behind-the-wheel instruction and declines the instruction. Such statements shall be kept with the student's instruction records.

d) The minimum of 6 ~~six (6)~~ hours of classroom instruction shall be offered to all students enrolled for a regular course in any driver training school. Time spent by a student operating a driving simulator under the supervision of a licensed instructor may be counted as classroom instruction time, provided the student receives at least 4 ~~four (4)~~ hours of lectures or other instruction on safe driving practices.

e) Students enrolled in a short review course need not comply with the minimum requirements stated above; however, no driver training school shall offer a short review course to any student who has never had a valid driver's license or a course in driver training and instruction which meets the minimum requirements prescribed above.

f) Behind-the-wheel driving lessons, observation lessons, travel time, or any combination thereof, shall not exceed 3 ~~three (3)~~ hours in length for any student in any 24 hour period, excluding time spent at a Driver Services facility ~~Driver's License Examination Facility~~ for testing purposes. If more than one student is present in the training car (e.g., one student behind-the-wheel, one observing), the total combined time should not exceed 3 ~~three (3)~~ hours, excluding time spent at a Driver Services Facility ~~Driver's License Examination Facility~~ for testing purposes. A driver training school providing

training for a commercial driver's license is exempt from this requirement.

g) Each driver training school must submit an "Enhanced Instruction Report" on a form prescribed by the Department showing the name, address, and number of behind-the-wheel instruction periods taken for every student who has had 25 hours of behind-the-wheel instruction. A supplementary "Enhanced Instruction Report" must be submitted after each additional 10 ~~ten-(10)~~ hours of instruction and a final report must be submitted within 5 ~~five--(5)~~ days after any such student completes his instruction. A driver training school providing training for a commercial driver's license is exempt from this requirement.

h) A student must possess a current or valid instruction permit or valid driver's license unless exempted as provided by law before each and every behind-the-wheel lesson.

i) The commercial driver training school instructor shall be responsible for verifying that each student has a valid instruction permit before each and every behind-the-wheel lesson.

22069

(Source: Amended at 22 Ill. Reg. _____, effective DEC 2 1998)

Section 1060.120 Requirements to Obtain and Retain a Driver Training Instructor's License

a) The Secretary of State shall not issue, or shall deny, cancel, suspend or revoke, a driver training instructor's license:

1) To any person who has not held a valid driver's license for any 2 ~~two-(2)~~ year period preceding the date of application for an instructor's license;

2) To any person who has been convicted of 3 ~~three-(3)~~ or more offenses against traffic regulations governing the movement of traffic within the 2 ~~two-(2)~~ year period immediately preceding the date of application for an instructor's license;

3) To any person who has had 2 ~~two-(2)~~ or more convictions of a violation which caused an auto accident within the 2 ~~two-(2)~~ year period immediately preceding the date of application for an instructor's license;

4) To any person who has been convicted of driving under the influence of alcohol and/or other drugs, pursuant to Section 11-501 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-501], leaving the scene of a fatal accident, pursuant to Section 11-401 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-401], reckless homicide, pursuant to Section 9-3 of the Criminal Code of 1961 [720 ILCS 5/9-3], reckless driving, pursuant to Section 11-503 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-503], or any sex or drug related offense within 10 years

prior to date of application;

5) To any person who has failed to pass the written, vision, or road test required by the Department for applicants for a driver training instructor's license;

6) To any person who is physically unable to safely operate a motor vehicle or to safely instruct or train others in the operation of a motor vehicle as determined by a licensed physician pursuant to Section 6-411(d) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411(d)]. An application/medical examination form provided by the Secretary of State shall be completed by the applicant and physician. The physician's medical examination form shall contain the applicant's ability to safely operate a motor vehicle. The form shall also contain an indication of the person's eyesight, hearing, mental alertness, reflexes, and whether the person has normal use of his limbs and feet. The physician must also provide his address and the date and place of the examination. Those persons who are solely classroom instructors shall comply with subsection (d) of this Section;

7) To any person who fails to properly and fully complete an application for such license or otherwise indicates that he is unqualified to receive a driver training instructor's license;

8) To any person who is not employed or associated with a driver training school licensed by the Department as required pursuant to Section 6-417 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-417];

9) To any person who is currently a salaried or contractual employee of the Secretary of State as mandated by the guidelines of the Secretary of State's Office Policy Manual which states that an employee shall not advocate or promote specific professional or commercial services to the public in matters under the jurisdiction of the Office of the Secretary of State;

10) To any person who fails to supply a complete set of fingerprints to the Department as required pursuant to Section 6-411(b) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411(b)];

11) To any person who is not at least 21 years of age and a resident of the State of Illinois;

12) To any person who has failed to comply with the provisions of these Rules pursuant to Section 6-411(d) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411(d)];

13) To any person who is not of good moral character as required pursuant to Section 6-411(a) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411(a)]. In making a determination of good moral character, the Department is not limited to, but may consider the following:

A) if the person has been convicted of a crime; or

B) the age of the person at the time any criminal conviction

was entered; or

C) the length of time that has elapsed since the person's criminal conviction; or

D) the relationship of any crime convicted of to the ability to teach as a driver training instructor; or

E) any conviction of rehabilitation after a criminal conviction; or

F) opinions of community member concerning the applicant;

14) To any person whose suspension under Section 11-501.1 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-501.1] has terminated within 5 years prior to date of application;~~.~~

15) To any person who has not completed a 30 hour course or an equivalent college or university course approved by the Director of the Department.

A) Any person possessing a current and valid commercial driver training instructor's license, or who is renewing a commercial driver training license issued by the Secretary of State's Office, shall be exempt from this requirement.

B) A driver training school whose instructor provides training to individuals under the age of 18 years is exempt from this requirement and must complete the mandatory 48 hour course as required in Section 1060.180 of this Part.

b) If an applicant indicates that he has been convicted of a felony, the applicant shall submit a signed release allowing the Department to obtain any information regarding the applicant's arrest and conviction, thereby enabling the Department to determine the fitness of an applicant to be licensed as an instructor.

c) No driver training instructor shall provide behind-the-wheel instruction in a vehicle which is classified higher than the classification of such instructor's driver's license. An instructor may hold two classifications; one classification from Classes A, B, C and D, and one classification from Classes L and M. An instructor holding a Class A commercial driver's license may teach students to drive all Class A, B, C, and D vehicles. An instructor holding a Class B commercial driver's license may teach students to drive all Class B, C, and D vehicles. An instructor holding a Class C commercial driver's license may teach students to drive all Class C and D vehicles. However, an instructor holding a non-commercial driver's license may only teach students who do not require a commercial driver's license. An instructor holding a Class M license may teach students to drive all Class L and M vehicles.

d) Any person who is physically unable to safely operate a motor vehicle but meets all other requirements to be a driver training instructor shall be able to teach only the classroom portion of the driver training course upon receipt of a doctor's statement indicating the person is physically able to teach in the classroom. The person shall also pass the vision test, as provided in 92 Ill. Adm. Code 1030.70,

the written test, as provided in 92 Ill. Adm. Code 1030.80, the highway safety sign test, and submit all applicable fees as set out in Section 6-411 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411] before being issued an instructor's license for classroom instruction only.

e) All instructors who have ceased to be employed or associated with the designated school on their license must submit a new complete instructor's license application and application fee before being licensed to instruct at another school or in the same school after such cessation.

f) If a driver training instructor license is not renewed within one year after the previous year's expiration date, the applicant shall be required to take examinations pursuant to Section 1060.130 of this Part.

g) An instructor shall not engage in fraudulent activity as defined in Section 1060.5 of this Part.

h) During the course of instruction in either classroom or behind-the-wheel, an instructor shall not engage in activity unrelated to normal driving instruction that puts the student in danger.

(Source: Amended at 22 Ill. Reg. 22069, effective DEC 2 1998)

Section 1060.130 Examination for Driver Training Instructor

a) Each individual desiring to be licensed as a driver training instructor for a specific driver training school, must pass a written test, traffic control test, vision test, and a driving test which will be offered by the Department at periodic intervals.

1) The written test shall consist of questions dealing with:

A) Chapter 95 1/2 of the Illinois Revised Statutes;

B) Safe Driving Practices;

C) Operation of Motor Vehicles;

D) Teaching Methods; and

E) Commercial Driver Training Schools (92 Ill. Adm. Code 1060).

2) In order to pass the written test which consists of 100 true-false and multiple choice questions, an individual shall answer at least 85 of the questions correctly.

3) The individual shall meet the criteria established in 92 Ill. Adm. Code 1030.70 in order to pass the vision test.

4) The individual shall meet the criteria established in 92 Ill. Adm. Code 1030.85 in order to pass the road test. The Department shall not issue a driver training instructor's license to any person who is physically unable to safely operate a motor vehicle or to safety instruct or train others in the operation of a motor vehicle as determined by a licensed physician pursuant to Section 6-411(d) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411(d)]. The physician's medical

report shall contain medical information which relates to the driver's medical ability to safely operate a motor vehicle. The form shall also contain an indication of the person's eyesight, hearing, mental alertness, reflexes, and whether the person has normal use of his limbs and feet. The physician must also provide his address and the date and place of the examination. Those persons who are solely classroom instructors shall comply with Section 1060.150(d) of this Part.

5) The individual shall not miss any questions on the official traffic control device test in order to pass the test.

6) Commercial driver accredited instructor applicants must take an additional written test which consists of 25 ~~twenty-five-(25)~~ multiple choice and true/false questions, with a pass rate of 21.

b) Each applicant will be given a maximum of 3 ~~three-(3)~~ opportunities in any 12 month period ~~a--calendar--year~~ to pass the driver training instructor's examination. An applicant for a driver training instructor's license may be allowed to attempt the road test a second time in the same day during normal business hours of the Driver Services facility if he/she fails the first attempt to pass the road test. However, if the applicant demonstrates a danger to the public safety during his/her first attempt to pass a road test, he/she will not be allowed to make a second or subsequent attempt during the same day. An applicant will not be allowed to make a third attempt to pass a road test on the same day in which he/she failed the previous attempt. Individuals who have failed their third examination must wait at least 1 ~~one-(1)~~ year from the date of the third failure before making a new application.

(Source: Amended at 22 Ill. Reg. 22069, effective DEC 2 1998)

Section 1060.180 Teen Accreditation

a) Accreditation of the School -- Each commercial driver training school which desires to offer instruction to those under the age of 18 must be accredited by the Secretary of State through the Department of Driver Services before such instruction can be offered or advertised.

1) Upon receipt of proper application for accreditation, the Secretary of State will investigate the school and verify the application. A Secretary of State employee shall contact the school and make an appointment to visit the school's facilities. At the time of the visit, the Secretary of State employee shall verify that the school meets the standards set forth for commercial driving schools in Section 6-401 of the Illinois Vehicle Code [625 ILCS 5/6-401]. In addition, the school shall meet the standards for commercial driver school teen accreditation that are set forth in Section ~~Sections~~ 1060.180(b) through (f) of this Part. These standards shall be furnished to

the school by the Secretary of State before the visit if the school requests them. If all qualifications and standards are met, the school shall be certified to offer instruction to students under the age of 18.

2) The accreditation of each school is renewable upon the expiration date of the school license provided all qualifications and standards are met and provided the school has been in compliance with all rules.

3) Only qualified teaching personnel may teach persons under age 18. Exception: in event of an emergency situation wherein the only available teacher terminates his or her employment, or must take a leave of absence, while a course remains incomplete, other licensed instructors may take over and complete the course. No new courses may be started before properly qualified teaching personnel are again available. In all such cases the Department must be given prior approval. Approval shall not be given until the Department has checked the roster of instructors at the school and determined that no other teacher licensed by the Secretary of State to teach students under 18 is available at the school.

b) Required Facilities -- All teen accredited driver training schools must provide all classroom and vehicle facilities and equipment as prescribed in the driving school laws and regulations as administered by the Secretary of State. Those who desire to provide instruction for persons under the age of 18 must comply with Section 1060.50 of this Part. Schools in operation at the time that this Part becomes effective may continue to use their present classroom facilities as long as they continue to occupy them.

1) Required Course of Instruction

A) One ~~(1)~~ copy of an outline covering the topics to be taught in the classroom phase of instruction, and 1 ~~one-(1)~~ copy of an outline of the behind-the-wheel phase of instruction constructed along the lines of the recommended "Illinois Driver Education Curriculum." Said outlines must meet the approval of the Director of the Department.

i) Accredited teen driver training schools must follow the approved classroom and behind-the-wheel course outlines that are submitted to the Director of the Department at the time of application for certification. The Department shall determine compliance with this provision by unannounced inspections of teen classes and records. At least one such inspection shall take place every 2 ~~two-(2)~~ months.

ii) If such classroom or behind-the-wheel outlines are substantially changed, revised outlines must be submitted in duplicate to the Director of the Department for approval. A letter shall be sent to

the driver training school informing them if their classroom or behind-the-wheel outline has been approved.

B) Instructional materials shall be available and shall include one of the following: a 16 mm sound projector and screen, video equipment with films processed on video tape, a film strip or slide projector and films which correspond with the outline described in paragraph (b)(2)(A) of this Section.

C) A professional library containing an assortment of reference and textbooks, pamphlets and other publications which is available for the use of students or teachers.

c) Teacher Qualifications

1) Classroom Teacher Qualifications -- Each teen accredited driver training school must have at least one classroom instructor employed who meets the standards of Section 6-411 of the Illinois Vehicle Code [625 ILCS 5/6-411], pertaining to classroom instructors who teach approved driver education courses to students under 18 years of age.

A) A classroom driver training instructor teaching the teen accredited program must comply with Sections 1060.120 and 1060.130 of this Part.

B) The instructor must possess good physical, mental health. An application - physical exam form will be provided by the Secretary of State which must be completed by the instructor and a physician.

C) The instructor must qualify under one of the following requirements:

i) Be a certified teacher meeting the requirements of 23 Ill. Adm. Code 252.40(b)(3). (Minor -- 16 semester hours)

ii) Hold a baccalaureate degree, have 1 ~~one--(1)~~ year of teaching experience in primary, secondary or higher education and complete a 48 hour course approved by the Director of the Department.

iii) Complete the 48 hour course (a course, at least 48 hours in length designed to provide individuals with the knowledge, methods and procedures specific to conducting driver education instructional courses, that has been approved by the Department Director) or an equivalent college or university course approved by the Director of the Department and provide written documentation verifying they have had 2 ~~have--six--(6)~~ months of experience teaching behind-the-wheel to adults.

2) Behind-the-wheel Teacher Qualifications -- Behind-the-wheel teachers of driving shall be those who have passed an objective type written examination based upon current textbooks and the Motor Vehicle Code; a practical test regarding their ability to drive and to instruct others; and investigation of their moral character and driving record as required in Section 6-411 (a) through (f) of the Illinois Vehicle Code [625 ILCS 5/6-411(a) through (f)] and supplementary regulations.

A) A driver training instructor teaching the teen accredited behind-the-wheel program must comply with Sections 1060.120 and 1060.130 of this Part.

B) The instructor must possess good physical and mental health. An application - physical exam form will be provided by the Secretary of State which must be completed by the instructor and a physician.

C) The instructor must qualify under one of the following requirements:

i) Be a certified teacher meeting the requirements of 23 Ill. Adm. Code 252.40(b)(3).

ii) Hold a baccalaureate degree and have 6 ~~six--(6)~~ months of experience in teaching behind-the-wheel to adults.

iii) Have 7 ~~seven--(7)~~ years of uninterrupted teaching experience in a commercial driver training school.

iv) Be licensed by the Secretary of State, complete the 48 hour course or an equivalent college or university course approved by the Director of Driver Services, and provide written documentation verifying they have had 2 ~~have--six--(6)~~ months of experience teaching behind-the-wheel to adults.

3) Classroom and/or behind-the-wheel driver education teachers are to be assigned not more than 12 ~~eight--(8)~~ clock hours of instructional work daily. No teen instruction, classroom or behind-the-wheel can take place between the hours of 10:00 p.m. and 6:00 a.m.

d) Student Qualifications

1) A driver training school or driver training instructor licensed by the Secretary of State shall comply with all of the requirements of Section 6-408.5 of the Illinois Vehicle Code [625 ILCS 5/6-408.5] prior to requesting a certificate of completion from the Secretary of State.

2) A superintendent or chief school administrator may waive the requirements contained within Section 6-408.5 of the Illinois Vehicle Code if he/she deems it to be in the best interests of the student or dropout. The State Board of Education may, at their discretion, by rule or regulation, establish guidelines for the waiver of the requirements of Section 6-408.5 of the Illinois Vehicle Code [625 ILCS 5/6-408.5].

3) Prior to a driver training school or driver training school instructor requesting a certificate of completion for ~~providing any classroom or behind the wheel instruction to~~ a student, the driver training school or driver training instructor must verify that the student is enrolled in school and has received a passing

grade in at least 8 ~~eight--(8)~~ courses during the 2 ~~two--(2)~~ semesters. Verification of a student's eligibility to obtain a certificate of completion from the Secretary of State shall be by one of the following methods:

A) obtain written documentation on a form prepared or approved by the Secretary of State stating the student has received a passing grade in at least 8 ~~eight-(8)~~ courses during the previous 2 ~~two-(2)~~ semesters;

B) obtain written waiver from a superintendent or school administrator on a form prepared or approved by the Secretary of State;

C) obtain written verification on a form prepared or approved by the Secretary of State stating the student is enrolled in a home school;

D) obtain copies of the student's report card and/or transcript for the previous 2 ~~two-(2)~~ semesters indicating a passing grade in at least 8 ~~eight-(8)~~ courses during the previous 2 ~~two-(2)~~ semesters.

4) Verification of eligibility for any person who has dropped out of school and has not yet attained the age of 18 years shall be by one of the following methods:

A) obtain written documentation verifying the dropout's enrollment in GED or an alternative education program or obtain a copy of the dropout's GED certificate;

B) obtain written verification that the student prior to dropping out had received a passing grade in at least 8 ~~eight-(8)~~ courses during the 2 ~~two(2)~~ previous semesters last ending prior to requesting a certificate of completion; or

C) obtain written consent on a form prepared or approved by the Secretary of State from the dropout's parents or guardian and the regional superintendent.

5) Students enrolled in a driver training school shall be informed in writing of the eligibility requirements of Section 6-408.5 of the Illinois Vehicle Code at the time of registration which shall be documented in the student's file.

6) The driver training school and/or driver training school instructor shall maintain a copy and make available for inspection all written documentation required by this Section.

e) Classroom Instruction -- for persons under age 18 years

1) No classroom instruction shall be provided to any person who is enrolled as a student in any public or non-public secondary school unless the restrictions contained in Section 6-408.5 of the Illinois Vehicle Code [625 ILCS 5/6-408.5] are complied with.

2) Classroom instruction shall include not less than 30 class hours. Instructional periods are to be no longer than 2 ~~two-(2)~~ hours daily with meetings distributed regularly throughout the minimum of four complete weeks. The maximum number of students cannot

exceed 30 per class for classroom instruction unless the size of the classroom exceeds 350 square feet, then a maximum of 35 students shall be allowed.

3) Classroom instruction shall include subject matter relating to the rules of the road, safe driving practices, pedestrian safety, driver responsibility, theory of driving, defensive driving techniques, behavioral characteristics of drivers, auto insurance and financial responsibility, development of perception for driving, emergency situation procedures, the use of automobile safety devices, and the effects of alcohol and/or other drugs on driving.

4) Each classroom course must have a definite starting date and completion date. Late registrations shall not be accepted beyond the third day of the course, at which time the course must be closed to further enrollments.

5) Late registrants and absentees shall be given make-up instruction, assignments. No school shall permit the student to be absent from more than 4 ~~four--(4)~~ class sessions without requiring the student to re-enroll in a later course and to start over.

6) The teaching facilities must provide adequate, comfortable seating for students. Lighting must be adequate and the maintenance (housekeeping) of the room orderly.

7) A textbook on driver education must be in the possession of each student for the duration of the course, to be used as a regular part of the course content, and consistent with the recommended course outline.

8) Audio-visual materials shall be used as a supplement to the teacher's presentation but not as a replacement. Reference materials are to be available to the students and their use assured by assignments. All assignments are to be made in advance of due dates and should include outside reading as well as preparation for testing.

9) A regular schedule of classroom testing shall be followed. Student progress in acquaintance with information, data, and knowledge is to be periodically evaluated. Criteria for passing or failing the course must be evident to the students and successful completion clearly defined.

10) Each student shall be informed prior to the time instruction begins of the character and amount of any and all fees or charges made for enrollments or registration, tuition, use of equipment, text and reference materials, supplies, and any service, equipment, or materials provided by the commercial driving school.

11) Instruction for each student in the class shall begin on the date and location designated by advertisement and continue throughout the designated period unless the course is cancelled and the student is refunded any fees already paid.

12) A listing of students enrolled in the classroom shall be sent to the Department of Driver Services Blue Slip Unit within 3 ~~three (3)~~ days after the third day of classroom instruction on forms provided by the Secretary of State. A certificate will not be issued to anyone whose name has not been submitted on this form signed by an authorized official of the school.

f) Laboratory Instruction -- for persons under age 18 years.

1) Laboratory instruction shall not begin until such time as the student is enrolled in a classroom program of driver education and possesses the basic information required for safe operation of a vehicle in traffic. At least 4 ~~four (4)~~ hours of classroom instruction must be given before behind-the-wheel lessons are started.

2) Each student must have in his or her possession when engaged in vehicle operation a valid instruction permit issued by the Secretary of State.

3) Not less than two nor more than four students are to occupy the car with an instructor when instruction is in progress. Student driving experiences shall be for periods of not more than 90 minutes for each student per session. The accumulation of 6 ~~six (6)~~ hours of practice driving shall be distributed regularly throughout a minimum of two complete weeks. Although observation time in the car may not be counted as practice driving, a minimum of 6 ~~six (6)~~ hours is required. The only exception shall be when a parent requests that observers be excluded because the student is disturbed by having an observer in the car.

4) Each student shall receive a minimum of 6 ~~six (6)~~ full hours of behind-the-wheel instruction. There can be no allowance for any absences without actual make-up time spent behind-the-wheel. Satisfactory completion denotes that each student has the competencies to be certified by the school for issuance of a certificate.

5) Lesson time or practice driving time may not be used to call for, deliver or dismiss other students to their homes or pick up points.

6) Practice driving instruction shall include actual experience in starting, stopping, shifting, turning, backing, parking, steering, and emergency situation procedure in a vehicle equipped according to Section 6-410 of the Illinois Vehicle Code [625 ILCS 5/6-410].

g) Records

1) Records shall be maintained by schools which substantiate daily attendance, lesson time, and periodic evaluation of each student. Also recorded shall be the beginning and ending dates of classroom as well as laboratory instruction. Students are to be identified by their social security numbers as well as by name, address and other personal information. Such records are to be on file in the office of the management for a period of 3 ~~three (3)~~ years.

2) A Secretary of State form shall be used for submitting the names of those students who have satisfactorily fulfilled the requirements of the complete course in driver education and who qualify for a certificate. The form shall be signed by an authorized official of the school.

(Source: Amended at 22 Ill. Reg. _____, effective ~~DEC 2 1998~~)

Section 1060.190 Denial, Cancellation, Suspension, And Revocation Of Commercial Driver Training School's License And Instructor's License

a) The Secretary of State shall deny or cancel a commercial driver training school license for failing to correct after being served written notice, giving five business days to correct any violation of the following regulations and laws governing commercial driver training schools:

1) a violation of any requirements in Sections 1060.50 of this Part and Sections 6-403, 6-404, 6-405, 6-406, and 6-407 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-403, 6-404, 6-405, 6-406, and 6-407] relating to the physical facilities of the school;

2) a violation of any requirements in Sections 1060.60 and 1060.200(e)(1) of this Part and Sections 6-408 and 6-408.5 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-408 and 6-408.5] relating to the maintenance of driver training school records;

3) a violation of any requirements in Section 1060.110 of this Part and Section 6-410 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-410] relating to the safety inspection and requirements of a driver training school's motor vehicles;

4) failure of school to own or lease a vehicle;

5) failure to pay the fees required by Section 6-402 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-402];

6) for a violation of Section 1060.20(a)(2) of this Part relating to the employment of a licensed driver training instructor;

7) for any violation of the requirements of Section 1060.30 of this Part relating to driver training school names and business organizational status;

8) for any violation of the requirements of the Business Corporation Act of 1983 [805 ILCS 5];

9) for a violation of the requirements of a vehicle used for instruction to have a safety inspection sticker as required by Section 1060.110 of this Part and Section 6-410 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS

5/6-410];

10) for a violation of the requirement of a vehicle used for instruction to have a current and valid registration on the vehicle used for driver training that is retained in the vehicle as required by Section 1060.110(d)(9) of this Part.

b) A commercial driver training school's license shall be immediately canceled:

1) for a violation of the requirements of Section 6-402(e) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-402(e)];

2) for a violation of the requirements of Section 6-402(d) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-402(d)];

3) for a violation of the requirements of Section 1060.90 of this Part.

c) If a branch license is canceled because the branch facility does not meet the standards found in Section 1060.50 of this Part, the school's license shall not be canceled but the branch shall remain closed until the branch facility comes into compliance.

d) In order to be eligible to be reinstated following cancellation, the school shall reapply for a license, pay the required application fee of $250 for a school as required by Section 6-402(i) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-402(i)] and demonstrate compliance with the provisions of this Part for which the cancellation was issued (e.g., proof of insurance).

e) The Secretary of State shall cancel a commercial driver training school instructor's license for failing to correct after being served written notice, giving five business days to correct, any violation of Section 6-418 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-418].

f) A commercial driver training school instructor's license shall be immediately canceled:

1) upon notification to the Commercial Driver Training Section that the instructor is no longer employed by the school or no longer has a valid driver's license;

2) for failure to produce records after a written warning and demand to produce the records within 5 ~~five (5)~~ business days.

g) In order to be eligible to be reinstated following cancellation, the instructor shall reapply for a license; pay the required fee of $35 for an instructor as required by Section 6-411(g) of the Illinois Vehicle Code [625 ILCS 5/6-411(g)]; and demonstrate compliance with the provisions of this Part for which cancellation was issued (e.g., proof of insurance).

h) The Secretary of State shall suspend a commercial driver training school license up to 1 ~~one (1)~~ year depending on the severity of the violation if the school violates any of the following regulations and laws governing commercial driver training schools:

1) for any violation of this Part;

2) for any violation of Section 6-407, 6-408, 6-408.5 or 6-409 of the Illinois Vehicle Code [625 ILCS 5/6-407, 6-408, 6-408.5 or 6-409];

3) if a school accredited to teach teens pursuant to Section 1060.180 of this Part fails to keep records on teenage clients as required in Section 1060.180(g), the school shall have its teen accreditation as found in Section 1060.180(a) suspended, but not their school license;

4) if a school accredited to teach teens pursuant to Section 1060.180 of this Part violates any of the provisions in Section 1060.180(d), the school shall have its teen accreditation as found in Section 1060.180(a) suspended, but not its school license.

i) A school which wishes to have a license reinstated following suspension shall reapply and pay the application fee of $250 as required by Section 6-402(i) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-402(i)].

j) The Secretary of State shall suspend a commercial driver training school instructor's license up to 1 ~~one (1)~~ year depending upon the severity of the infraction for any violation of this Part.

k) An instructor who wishes to have a license reinstated following suspension shall reapply and pay $35 required by Section 6-411(g) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411(g)].

l) The Secretary of State shall revoke a commercial driver training school license for ~~if the school violates~~ any of the following reasons: ~~regulations and laws governing commercial driver training schools:~~

1) if the school engages in or permits any type of fraudulent activity, either with reference to a student or the Secretary of State;

2) for selling, assigning, bartering, or trading any school or instructor license issued by the Secretary of State;

3) for remaining in operation if the school's license has been suspended, canceled, revoked, or not renewed;

4) for having unauthorized possession of application forms or questionnaires used by the Driver Services Department of the Secretary of State's Office in conjunction with administering driver's license examinations;

5) for making a false statement or knowingly concealing a material fact in the application for a school license;

6) for a subsequent violation of Section 6-407 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-407];

7) for repeated violations of this Part or Article IV of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. IV];

8) a violation of Section 11-501 of the Illinois Vehicle Code [625

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

ILCS 5/11-501] relating to driving under the influence of drugs and/or alcohol;

9) if the owner(s) of the commercial driver training school has received a suspension of driving privileges under Section 11-501.1 of the Illinois Vehicle Code [625 ILCS 5/11-501.1] that has terminated within the last 10 years prior to the date of application.

m) A revocation shall be for an indefinite period. After ~~one-(~~ 1~~)~~ year the school may apply for reinstatement by requesting a formal administrative hearing as found in 92 Ill. Adm. Code 1001.Subpart A.

n) The Secretary of State shall revoke a commercial driver training school instructor's license if the instructor violates any of the following regulations and laws governing commercial driver training schools:

1) If he/she is convicted of the following:

A) a violation of Section 11-501 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-501] relating to driving under the influence of drugs and/or alcohol.

B) a violation of Section 11-503 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-503].

C) a violation of Section 9-3 of the Criminal Code of 1961 [720 ILCS 5/9-3] relating to reckless homicide.

D) a violation of Section 11-401 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-401].

E) any sex or drug related offense.

2) If he/she engages or permits any type of fraudulent activity either with reference to a student or the Secretary of State.

3) A violation of Section 6-420(5) of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/6-420(5)].

4) If he/she knowingly aids or assists an applicant in obtaining a driver's license by fraudulent procedure.

5) If he/she has in possession unauthorized application forms or questionnaires used by the Driver Services Department in conjunction with administering driver's license examinations.

6) For repeated violations of this Part or Article IV of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. IV].

7) If he/she has received a suspension of driving privileges under Section 11-501.1 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-501.1], which has terminated within the last 10 ~~ten--(10)~~ years prior to the date of application.

o) A revocation of an instructor's license shall be for an indefinite period of time. After 1 ~~one-(1)~~ year, the instructor may apply for reinstatement by requesting a formal administrative hearing as found in 92 ~~9(~~ Ill. Adm. Code 1001.Subpart A.

p) An owner's or instructor's license shall be revoked for lack of good

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

moral character. In making a determination of good moral character, the Department is not limited to, but may consider the following:

1) If the owner or instructor has been convicted of a crime; or

2) The relationship of any crime convicted of to the ability to operate a driver training school; or

3) Opinions of the community members concerning the owner or instructor; or

4) The length of time that has elapsed since the owner's or instructor's last criminal conviction; or

5) If the owner or instructor has been convicted with an offense and the Secretary of State has received sufficient evidence that the owner or instructor has been convicted of an offense in regard to a student or the Secretary of State:

A) In determining whether action should be taken, there must be sufficient evidence that the owner or instructor has committed an offense in regard to a student or the Secretary of State. "Sufficient evidence" shall be defined as but not limited to:

i) copies of court documents showing the conviction of an owner or instructor of an offense in regard to a student or the Secretary of State;

ii) affidavits of eyewitnesses or others with first hand knowledge concerning the matters which indicate offenses in regard to students or the Secretary of State;

iii) any other competent evidence, including but not limited to: police reports, transcripts of preliminary hearings or Grand Jury proceedings, and other documents deemed important and probative by the State's Attorney.

B) If sufficient evidence is received from the State's Attorney and indicates that a person has committed an offense in regard to a student or Secretary of State, and that these offenses, currently awaiting court disposition, involved a student or Secretary of State, the owner's or instructor's license shall be revoked.

C) If the owner or instructor, whose commercial driver training school license has been revoked under this Section, is adjudicated "guilty" by the court systems, the revocation previously entered on his/her record in accordance with this Section shall stand. This action does not preclude further suspension and/or revocation of their commercial driver training school license under another Section of the Illinois Vehicle Code.

D) If the owner or instructor, whose commercial driver training school license has been revoked under this Section, is adjudicated "not guilty" by the court system, the revocation previously entered on their license in accordance with this

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

Section shall be rescinded. This action does not preclude further suspension and/or revocation of their commercial driver training school license under another Section of the Illinois Vehicle Code.

E) If the individual whose commercial driver training school license has been revoked under this Section is granted a disposition of "court supervision" by the court system, the revocation previously entered in accordance with this Section shall be rescinded. This action does not preclude further suspension and/or revocation of their commercial driver training school license under another Section of the Illinois Vehicle Code.

F) If the charges against the owner or instructor, whose commercial driver training school license has been revoked under this Section, are reduced or altered in any manner such that the offense(s) for which the owner or instructor is convicted is not an offense in regard to a student or Secretary of State, the revocation previously entered in accordance with this Section shall be rescinded. This action does not preclude further suspension and/or revocation of a commercial driver training school license under another Section of the Illinois Vehicle Code.

G) An individual whose commercial driver training school license has been revoked pursuant to this Part may request an administrative hearing pursuant to 92 Ill. Adm. Code 1001.

q) The Secretary of State shall have the discretionary authority to issue warning letters to commercial driver training schools or instructors for violations of the regulations and laws governing commercial driver training schools as found in this Part and Article IV of the Illinois Driver Licensing Law of the Illinois Vehicle Code, prior to the cancellation, suspension, or revocation of the school's or instructor's license.

r) Prior to the cancellation, suspension, or revocation of a school's or instructor's license, the Secretary may schedule a conference with the individual whose commercial license has been found to be in violation and administrative consultation will occur at this time. If the violation(s) are not corrected within a reasonable time, the Administrator shall take corrective measures upon the issuance of an "Advisory Letter for Correction" to the individual and/or school. If the violations are not corrected a warning letter shall be issued and the disciplinary process will begin pursuant to the regulations and laws governing commercial driving schools as found in this Part and Article IV of the Illinois Vehicle Code.

(Source: Amended at 22 Ill. Reg. 22069, effective DEC 2 1998)

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: The Administration and Operation of the Teachers' Retirement System

2) Code Citation: 80 Ill. Adm. Code 1650

3) Section Numbers: 1650.357 — Adopted Action: Added

4) Statutory Authority: Implementing and authorized by Article 16 of the Illinois Pension Code [40 ILCS 5/Art. 16]; Internal Revenue Code [26 U.S.C. 1 et seq.]; Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

5) Effective Date of Amendments: December 1, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Do these rules contain incorporations by reference? No

8) The adopted rule is on file in the Teachers' Retirement System?s principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: August 28, 1998, 22 Ill. Reg. 15548

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version: Various punctuation changes recommended by JCAR were made in the final version.

12) Have all the changes agreed upon by the agency and JCAR been as indicated in the agreements issued by JCAR? Yes

13) Will these rules replace an emergency rule currently in effect? Yes

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rules: Public Act 90-448, in part, amended Sections 16-152.1 and 16-154 of the Pension Code (40 ILCS 5/16-152.1, 16-154) to allow the "pick up" of optional contributions which are made through an irrevocable payroll deduction authorization, effective July 1, 1998. This rule clarifies how an employer may continue to pay for a member's optional contributions without going through the payroll deduction program in a manner consistent with the provisions of section 414(h)(2) of the Internal Revenue Code of 1986, as amended, and the most recent interpretations of that section issued by the Internal Revenue Service. Section 414(h)(2) is the federal requirement for a pick up arrangement

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

16) Information and questions regarding these adopted amendments shall be directed to:

Thomas S. Gray, Assistant General Counsel
Teachers' Retirement System
2815 West Washington, P.O. Box 19253
Springfield, Illinois 62794-9253
(217) 753-0375

The full text of the Adopted Amendments begins on the next page:

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE D: RETIREMENT SYSTEMS
CHAPTER III: TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

PART 1650
THE ADMINISTRATION AND OPERATION OF THE TEACHERS' RETIREMENT SYSTEM

SUBPART A: REPORTS BY BOARD OF TRUSTEES

SUBPART B: BASIC RECORDS AND ACCOUNTS

SUBPART C: FILING OF CLAIMS

SUBPART D: MEMBERSHIP AND SERVICE CREDITS

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

SUBPART E: CONTRIBUTION CREDITS AND PAYMENTS

SUBPART F: RULES GOVERNING ANNUITANTS AND BENEFICIARIES

SUBPART G: ATTORNEY GENERALS' OPINION

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

SUBPART H: ADMINISTRATIVE REVIEW

SUBPART I: AMENDMENTS TO BYLAWS AND RULES

SUBPART J: RULES OF ORDER

SUBPART K: FREEDOM OF INFORMATION ACT REQUESTS

SUBPART L: BOARD ELECTION PROCEDURES

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

SUBPART M: RETIREMENT BENEFITS

Section
1650.2900 Excess Benefit Arrangement

AUTHORITY: Implementing and authorized by Article 16 of the Illinois Pension Code [40 ILCS 5/Art. 16]; Freedom of Information Act [5 ILCS 140]; Internal Revenue Code (26 U.S.C. 1 et seq.); Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Filed June 20, 1958; emergency rules adopted at 2 Ill. Reg. 49, p. 249, effective November 29, 1978, for a maximum of 150 days; adopted at 3 Ill. Reg. 9, p. 1, effective March 3, 1979; codified at 8 Ill. Reg. 16350; amended at 9 Ill. Reg. 20885, effective December 17, 1985; amended at 12 Ill. Reg. 16896, effective October 3, 1988; amended at 14 Ill. Reg. 18305, effective October 29, 1990; amended at 15 Ill. Reg. 16731, effective November 5, 1991; amended at 17 Ill. Reg. 1631, effective January 22, 1993; amended at 18 Ill. Reg. 6349, effective April 15, 1994; emergency amendment at 18 Ill. Reg. 8949, effective May 24, 1994, for a maximum of 150 days; emergency modified at 18 Ill. Reg. 12880; amended at 18 Ill. Reg. 15154, effective September 27, 1994; amended at 20 Ill. Reg. 3118, effective February 5, 1996; emergency amendment at 21 Ill. Reg. 483, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 2422, effective January 31, 1997; amended at 21 Ill. Reg. 4844, effective March 27, 1997; emergency amendment at 21 Ill. Reg. 17159, effective December 9, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 7243, effective April 9, 1998; emergency amendment at 22 Ill. Reg. 7314, effective April 9, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 9374, effective May 14, 1998, for a maximum of 150 days; emergency amendment modified at 22 Ill. Reg. 11640; emergency amendment at 22 Ill. Reg. 13151, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 15620, effective August 17, 1998; amended at 22 Ill. Reg. 22090, effective DEC 1 1998.

SUBPART D: MEMBERSHIP AND SERVICE CREDITS

Section 1650.357 Employer Payment of Optional Contribution Balance

An employer may make a payment of a member's optional contribution balance (see 80 Ill. Adm. Code 1650.356(b)) on behalf of the member once per plan year, subject to the following conditions:

a) If the member does not have a payroll deduction authorization (80 Ill. Adm. Code 1650.356), the payment shall be either:
   1) picked up by the employer in accordance with section 414(h)(2) of the Internal Revenue Code of 1986, as amended (26 USC 414(h)(2)) so that the contribution is not subject to federal income tax in the year in which the contribution is made; or
   2) paid as an after-tax contribution for which the member is subject to federal income tax in the year in which the contribution is made.

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

b) If the member has a payroll deduction authorization (80 Ill. Adm. Code 1650.356) and the employer payment is made prior to the payroll deduction authorization becoming irrevocable (see 80 Ill. Adm. Code 1650.356(d)(7)), the payment shall be either:
   1) picked up by the employer in accordance with section 414(h)(2) of the Internal Revenue Code of 1986, as amended (26 USC 414(h)(2)) so that the contribution is not subject to federal income tax in the year in which the contribution is made; or
   2) paid as an after-tax contribution for which the member is subject to federal income tax in the year in which the contribution is made.

c) If the member has a payroll deduction authorization (80 Ill. Adm. Code 1650.356) and the employer payment is made after the payroll deduction authorization becomes irrevocable (see 80 Ill. Adm. Code 1650.356(d)(7)), the payment shall be either:
   1) picked up by the employer in accordance with section 414(h)(2) of the Internal Revenue Code of 1986, as amended (26 USC 414(h)(2)) so that the contribution is not subject to federal income tax in the year in which the contribution is made if the authorization for the pick up is made by the employer prior to the date on which the payroll deduction agreement becomes irrevocable; or
   2) returned to the employer if the authorization to pick up the contribution is made after the date on which the payroll deduction agreement became irrevocable or if the payment is supposed to be an after-tax contribution.

d) The employer shall certify to the System whether the payment is made on an after-tax basis or picked up pursuant to a contractual obligation, such as a collective bargaining agreement or an individual employment contract, or pursuant to a resolution of the governing body of the employer.

(Source: Added at 22 Ill. Reg. 22090, effective DEC 1 1998)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Public Museum Financial Support

2) Code Citation: 23 Ill. Adm. Code 3200

3)

Section Number:	Emergency Action:
3200.100	New
3200.110	New
3200.120	New
3200.130	New
3200.140	New
3200.150	New
3200.160	New
3200.170	New

4) Statutory Authority: Implementing and authorized by Section 1-25(22) of the Department of Natural Resources Act [20 ILCS 801/1-25(22)].

5) Effective Date of Amendments: December 3, 1998

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not applicable.

7) Date Filed with the Index Department: December 3, 1998

8) Reason for Emergency: The Illinois General Assembly appropriated $10M for a new grant program to museums for FY99. There has not been a State appropriation for grants to public museums since 1990. This grant program will make funds available to help public museums in Illinois expand and upgrade their educational programs. It is in the best interests of the people of Illinois to make these funds available to museums as soon as possible so that these educational program improvements can be made for the benefit of the many people that use these museums.

9) A Complete Description of the Subjects and Issues Involved: This program will provide funding to enhance educational programs operated by public museums located in the State.

10) Are there any proposed amendments to this Part pending? Yes

Section Numbers	Proposed Action	Register Citation
3200.5	Amend	22 Ill. Reg. 17381
3200.10	Amend	22 Ill. Reg. 17381
3200.15	New	22 Ill. Reg. 17381
3200.18	New	22 Ill. Reg. 17381
3200.20	Amend	22 Ill. Reg. 17381
3200.30	Repeal	22 Ill. Reg. 17381
3200.40	Amend	22 Ill. Reg. 17381

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY AMENDMENTS

3200.50	Amend	22 Ill. Reg. 17381
3200.55	New	22 Ill. Reg. 17381
3200.60	New	22 Ill. Reg. 17381
3200.70	New	22 Ill. Reg. 17381
3200.80	New	22 Ill. Reg. 17381

11) Statement of Statewide Policy Objectives: The proposed rules will have no adverse impact on local governments and contain no local government mandates. Those local governments that operate museums may benefit from this grant program.

12) Time, Place, and Manner in which interested persons may comment on this emergency rulemaking: Written comments may be submitted within 45 days of the publication of this notice to:

Stanley Yonkauski, Jr., Legal Counsel
Illinois Department of Natural Resources
524 South Second Street
Springfield IL 62701
Telephone: (217)782-1809

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None. Municipalities that operate museums may be eligible to apply for grant assistance.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: Museums that meet the eligibility criteria to apply for a grant must have at least one paid employee who has special knowledge related to museological, zoological, aquarium or botanical organizations.

14) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Emergency Amendments begins on the next page.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE B: CULTURAL RESOURCES
CHAPTER II: DEPARTMENT OF NATURAL RESOURCES

PART 3200
PUBLIC MUSEUM GRANT PROGRAM ~~FINANCIAL SUPPORT~~

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY AMENDMENTS

AUTHORITY: Implementing and authorized by Section 1-25(22) of the Department of Natural Resources Act [20 ILCS 801/1-25(22)].

SOURCE: Emergency rule adopted at 3 Ill. Reg. 11, p. 18, effective March 1, 1979, for a maximum of 150 days; adopted at 4 Ill. Reg. 18, p. 113, effective April 22, 1980; amended at 5 Ill. Reg. 5649, effective May 18, 1981; codified at 8 Ill. Reg. 1448; amended at 10 Ill. Reg. 4536, effective February 28, 1986; recodified from the Department of Energy and Natural Resources to the Department of Natural Resources at 22 Ill. Reg. 11230; emergency amendment at 22 Ill. Reg. 17381, effective September 17, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 22097, effective December 3, 1998, for a maximum of 150 days.

SUBPART B: PUBLIC MUSEUM OPERATING GRANT RULES

Section 3200.100 Definitions
EMERGENCY

"Applicant" means a public museum that makes an application to the Department pursuant to this Part.

"Care" means the keeping of adequate records pertaining to the provenance, identification and location of the museum's holdings, and the application of current professionally accepted methods to their security and to the minimization of damage and deterioration.

"Community" means the population base normally served by the museum.

"Department" means the Illinois Department of Natural Resources.

"Director" means the Director of the Department.

"Museum Education Program" means utilizing the resources of the museum for formal or informal learning opportunities for school children, teachers, or other citizens through face to face interactions or through educational technology, including educational technology partnerships.

"Nonprofit" means that the applicant has documentary evidence of its tax-exempt status under the regulations of the U.S. Internal Revenue Service.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY AMENDMENTS

"Organized" means that the applicant is a duly constituted body with expressed responsibilities.

"Permanent" means that the applicant has existed for at least two years and is expected to continue in perpetuity.

"Professional Staff" means that the applicant has at least one paid employee who devotes the preponderance of his/her time to offer "Museum Education Programs." This person is expected to command an appropriate body of special knowledge in museum education consonant with the experience of his or her peers, and to have access to and acquaintance with the literature of the field, and to work sufficient hours to meet adequately the current demands for museum educational services.

"Public Museum" means a facility operating for the purpose of acquiring, conserving, preserving, studying, interpreting, enhancing, and, in particular, organizing and continuously exhibiting (subject to temporary interruption due to construction or catastrophe) tangible objects to the public for its instruction and enjoyment, and is operated by or located upon land owned by a unit of local government or has an annual attendance of at least 150,000 and offers educational programs to school groups during school hours.

"Schedule" means regular and predictable hours that constitute substantially more than a token opening, so that access is reasonably convenient to the public (subject to temporary interruption due to construction or catastrophe).

"Tangible Objects" means specimens, artifacts, articles, documents; non-domesticated plants or animals, including fish; and other things of historical, anthropological, archeological, industrial, scientific or artistic import that form the applicant's collections and have intrinsic value to history, science, art or culture.

"Unit of Local Government" means counties, municipalities, townships, special districts and units, designated as units of local government by Illinois law, that exercise limited governmental power or powers in respect to limited governmental subjects, but does not include school districts.

(Source: Added by emergency rulemaking at 23 Ill. Reg. 22097, effective DEC 3 1998, for a maximum of 150 days)

Section 3200.110 Purpose
EMERGENCY

The Public Museum Operating Grants Program is designed to improve and enhance

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY AMENDMENTS

the capacity of public museums with established educational programs to more effectively utilize their museum resources to supplement the learning process of Illinois school children. The program is designed to support formal or informal learning opportunities for school children, teachers, or other citizens through face to face interactions or through educational technology, including education partnerships.

(Source: Added by emergency rulemaking at 23 Ill. Reg. 22097, effective December 3, 1998, for a maximum of 150 days)

Section 3200.120 Eligibility Criteria for Applicant Facilities
EMERGENCY

Any public museum located in Illinois shall be eligible for financial support for its museum education program if it establishes to the reasonable satisfaction of the Director that:

a) It is an organized, permanent institution that is tax exempt under the regulations of the U.S. Internal Revenue Service;
b) It is operated by or located upon land owned by a unit of local government or has an annual attendance of at least 150,000 and offers educational programs to school groups during school hours;
c) It has a professional staff;
d) It cares for and owns or utilizes tangible objects;
e) It conducts during the normal and continuous course of its operations activities of a "Public Museum";
f) It is open to the public on a regular schedule;
g) It devotes the majority of its floor space or grounds and professional staff effort to museological purposes; and
h) It has an established Museum Education Program.

(Source: Added by emergency rulemaking at 23 Ill. Reg. 22097, effective December 3, 1998, for a maximum of 150 days)

Section 3200.130 Application Procedure
EMERGENCY

Any applicant seeking financial assistance under this Part shall send 5 copies of each of the following documents to the Illinois Department of Natural Resources, Illinois State Museum, Spring and Edwards Streets, Springfield IL 62706-5000, Attention Public Museum Operating Grants:

a) A general information Application form supplied by the Illinois Department of Natural Resources;
b) A narrative statement describing the applicant's museum education program and how the financial assistance will enhance the applicant's museum education program;
c) A brochure describing educational offerings or school services (if available);
d) A statement describing the qualifications of the educator in charge of

the program (including a curriculum vitae);

e) The annual report of the applicant for the year preceding its application;

f) A certification statement executed by the chief executive officer of the institution that certifies that the applicant:

1) is an organized, permanent institution that is tax exempt under the regulations of the U.S. Internal Revenue Service;

2) is either operated by or located upon land owned by a unit of local government, OR has an annual attendance of at least 150,000 and offers educational programs to school groups during school hours;

3) has a professional staff;

4) cares for and owns or utilizes tangible objects;

5) conducts activities during the normal and continuous course of its operations of a "Public Museum";

6) is open to the public on a regular schedule;

7) devotes the majority of its floor space or grounds and professional staff effort to museological purposes;

8) has an active museum education program; and

9) will use the award to enhance the recipient's museum education program;

g) A certification statement signed by the applicant's chief financial officer that states that the amount of operating expenditures claimed in accordance with Section 3200.160 of this Part is accurate and complies with this Part;

h) The audited financial statements of the applicant prepared by a certified public accountant for the 2 years preceding the applicant's application and the written reconciliation statement as required by Section 3200.160(c)(3) of this Part;

i) An audit statement from an affiliated entity, OR a letter of certification listing expenditures and signed by an official of the affiliated entity if expenditures have been made by the affiliate on behalf of the applicant and claimed by the applicant as operating expenditures.

(Source: Added by emergency rulemaking at 23 Ill. Reg. 22097, effective December 3, 1998, for a maximum of 150 days)

Section 3200.140 Application Schedule
EMERGENCY

Applications for funding assistance will be accepted each year on a schedule announced publicly by the Department when appropriations have been made available for distribution under this program. Specific application guidelines will be available from the Department at that time.

(Source: Added by emergency rulemaking at 23 Ill. Reg. 22097, effective December 3, 1998, for a maximum of 150 days)

Section 3200.150 Review Procedure
EMERGENCY

Submissions from museums will be reviewed to ensure that:

a) the applicant has met the eligibility criteria;

b) the applicant has an established museum education program and that financial assistance from the Museum Operating Grants Program will support a project that will improve and enhance the museum education program; and

c) the applicant meets generally accepted professional standards (as in the accreditation programs of the American Association of Museums, American Zoo and Aquarium Association, American Association of Botanical Gardens and Arboretums, and other appropriate organizations).

(Source: Added by emergency rulemaking at 23 Ill. Reg. 22097, effective December 3, 1998, for a maximum of 150 days)

Section 3200.160 Method for Awarding Grants
EMERGENCY

a) Contribution Amount - Each eligible applicant for financial assistance pursuant to this Part may receive financial assistance in an amount determined by the following formula:

1) A proportionate amount equal to the fraction obtained by dividing the applicant's average operating expenditures by the aggregate operating expenditures of all eligible applicants, except that:

A) No qualifying museum may receive more than 10% of the total appropriation.

B) Except as provided in subsection (a)(3) below, no qualifying museum may receive less than 0.2% of the total appropriation.

2) In the event there is a balance left after the awards have been computed, the surplus will be allocated to museums on a prorated basis. The surplus balance shall be allocated proportionately to those museums not receiving the minimum or maximum awards from the initial computations. No museum may receive more than 10% of the total appropriation.

3) In the event there is a deficit after the awards have been computed, the amount of the deficit will be prorated against all awards. The amount of deficit prorated to each award will be calculated by taking the initial award allocations as calculated above, including the adjustments for minimums and maximums divided by the aggregate awards to determine the allocation fraction and applying it to the deficit. The result will be subtracted from the initial award amount.

b) Allocation Procedure - A contribution amount shall be determined by the following sequence of procedures:

1) The total operating expenditures of each applicant during its 2 fiscal years preceding its application shall be divided by 2 in order to determine the amount of average operating expenditures of each applicant;

2) The average operating expenditures of all eligible applicants shall be added together in order to determine the amount of aggregate operating expenditures of all applicants;

3) The average operating expenditures of each applicant shall be divided by the aggregate operating expenditures of all applicants in order to determine the allocation fraction of each applicant:

A) If the allocation fraction is more than 10% of the total appropriation, the award will be adjusted as required in subsection (a)(1)(A).

B) If the allocation fraction is less than 0.2% of the total appropriation, the award will be adjusted as defined in subsection (a)(1)(B).

c) Operating Expenditures - For purposes of this Part, the amount of operating expenditures, as heretofore defined, shall be derived by the applicant from the total amount of program and supporting services expense that is reported on its audited financial statement. However, to accommodate variations among applicants in accounting methods and expense descriptions on the financial statements, each applicant shall examine its financial statements in conformity with subsections (c)(1) and (2).

1) Operating expenditures may specifically include the following or similar type of expenses:

A) Expenditures from restricted and unrestricted accounts that are ordinary and necessary for the applicant's routine day-to-day operations, including salaries and benefits, products and services, and routine maintenance and repairs. Restricted funds are those whose use is restricted by outside agencies or persons as contrasted with funds over which the organization has complete control and discretion. Unrestricted funds are those that have no external restriction on their use or purpose, that is, funds that can be used for any purpose designated by the governing board as distinguished from funds restricted externally for specific purposes (for example, operations, plant, and endowment).

B) Capital expenditures from current unrestricted accounts or, in the alternative, an amount for the amortization or depreciation of such capital expenditures.

C) All expenditures from current restricted accounts that qualify as operating expenditures as defined under this subsection (c). Excluded from operating expenses are the capital expenditures listed in subsection (c)(2)(E). For example, expenditures related to the development of museum exhibitions and displays may be included even if made from a fund that is limited for this purpose. Expenditures from restricted accounts for preliminary planning or schematic design work are also allowable, including architectural, engineering, design, and consultant fees related to routine maintenance or rehabilitation.

D) Direct expenditures made on behalf of the applicant by an affiliated entity, provided that they are ordinary and necessary for the day-to-day operations of the applicant and are separately itemized and verified in writing by the affiliated entity. As used in this subsection (c)(1)(D), "direct expenditures" means expenditures that are identified specifically with the applicant and are incurred by the affiliated entity only for the applicant.

E) Expenditures for movable equipment and other types of personal property or, in the alternative, an amount for the amortization or depreciation of such personal property.

F) Interest expenses on funds borrowed by the applicant to finance expenditures that are otherwise allowable under this Part.

2) Operating expenditures shall not include any of the following or similar types of expenses:

A) Transfers made to or between the applicant's accounts or funds;

B) Losses or other costs associated with loans and/or investments made by the applicant;

C) Expenses for the direct and indirect costs of programs operated by the applicant that are unrelated or only remotely related to museological purposes. For example, the costs of salaries, equipment, facilities and other direct and indirect costs of a school with a regular curriculum that is run by the applicant are not allowable;

D) Expenses for field trips and other educational programs offered by the applicant to the extent that the costs are recovered from or paid by a participating traveler or student;

E) Capital expenditures from restricted accounts, including but not limited to:

i) real property;

ii) buildings, additions and/or structures (including site development and associated fixed equipment);

iii) extensive remodeling and/or rehabilitation work or site improvement; and

iv) utilities - lines fees, tapping fees, meter fees and other expenses not related to normal daily consumption;

F) Expenditures for repayment of principal on funds borrowed by the applicant.

3) If the amount of operating expenditures claimed by the applicant under this Part is not the same as a reported expense amount on

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY AMENDMENTS

the audited financial statement, the applicant shall prepare a detailed written explanation in order to reconcile the two. This explanation shall describe the amount and purpose of each expense added to or subtracted from the amount of expense reported in the audited financial statements in arriving at operating expense.

e) The Director shall determine and approve the amount that each eligible applicant receives as contribution under this Part.

(Source: Added by emergency rulemaking at 23 Ill. Reg. 22097, effective December 3, 1998, for a maximum of 150 days)

Section 3200.170 Program Information/Contact
EMERGENCY

For additional information on the public museum operating grant rules contact:

Karen Fyfe
Illinois State Museum, Administrative Office
Spring and Edwards Streets
Springfield IL 62706-5000
Phone: 217.782.7388; Fax: 217.782.1254
email: kfyfe@museum.state.il.us

(Source: Added by emergency rulemaking at 23 Ill. Reg. 22097, effective December 3, 1998, for a maximum of 150 days)

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Medical Payment

2) Code Citation: 89 Ill. Adm. Code 140

3) Section Numbers: 140.463 — Emergency Action: Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Section 4712 of the Federal Balanced Budget Act of 1997

5) Effective Date: December 1, 1998

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable

7) Date Filed with the Index Department: December 1, 1998

8) A copy of the emergency amendment, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Reason for Emergency: These emergency amendments are being filed pursuant to Section 4712 of the federal Balanced Budget Act of 1997 and are intended to provide payment adjustments for Federally Qualified Health Centers and Rural Health Clinics. These adjustments were to have taken effect October 1997 under the federal mandate, but implementation was delayed during a necessary period of methodology development. Therefore, immediate implementation of these emergency amendments is required to expedite current and back payment adjustments.

10) Complete Description of the Subjects and Issues Involved: These emergency amendments are being filed pursuant to Section 4712 of the federal Balanced Budget Act of 1997 and are intended to provide payment adjustments for Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs). In order to comply with this federal mandate, Department staff and representatives from FQHCs and RHCs worked together in a committee to reach a consensus regarding an acceptable methodology for the payment adjustment calculations. These payment adjustments were to have taken effect October 1997 under the federal mandate, but implementation was delayed during the period of methodology development. The emergency amendments will now serve to expedite back payment adjustments and establish the payment adjustment program as required by the federal legislation.

These emergency amendments are expected to result in a budgetary increase of $2.9 million.

11) Are there any other amendments pending on this Part? Yes

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

Sections	Proposed Action	Illinois Register Citation
140.430	Amendment	November 10, 1998 (22 Ill. Reg. 20511)
140.431	Amendment	November 10, 1998 (22 Ill. Reg. 20511)
140.432	Amendment	November 10, 1998 (22 Ill. Reg. 20511)
140.433	Amendment	November 10, 1998 (22 Ill. Reg. 20511)
140.434	Amendment	November 10, 1998 (22 Ill. Reg. 20511)
140.438	Amendment	November 10, 1998 (22 Ill. Reg. 20511)
140.467	Amendment	November 10, 1998 (22 Ill. Reg. 20511)
140.560	Amendment	November 10, 1998 (22 Ill. Reg. 20511)

12) Statement of Statewide Policy Objectives: These emergency amendments neither create nor expand any State mandates affecting units of local government.

13) Information and questions regarding this amendment shall be directed to:

Name: Joanne Jones
Address: Bureau of Rules and Regulations
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763
Telephone: (217) 524-0081

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

SUBPART C: PROVIDER ASSESSMENTS

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

SUBPART E: GROUP CARE

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

SUBPART F: MEDICAID PARTNERSHIP PROGRAM

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM

SUBPART H: ILLINOIS COMPETITIVE ACCESS AND REIMBURSEMENT EQUITY (ICARE) PROGRAM

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. III] and implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg.7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg.

18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; Section 140.569 withdrawn at 15 Ill. Reg. 1174; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a

maximum of 150 days; emergency amendment suspended effective October 12, 1993; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

Section 140.463 Clinic Service Payment
EMERGENCY

a) Hospital-Based Organized Clinics
   1) With respect to those hospital-based organized clinics that qualify as Maternal and Child Health clinics, as described in Section 140.461(f)(1), payment shall be in accordance with Section 140.930.
   2) With respect to all other hospital-based organized clinics, payment shall be in accordance with 89 Ill. Adm. Code 148.140.

b) Encounter Rate Clinics
   1) For encounter rate clinics providing comprehensive health care for women and infants or encounter rate clinics operated by a county with a population of over three million, payment shall be made at the lesser of:
      A) $50 per encounter; or
      B) The clinic's charge to the general public.
   2) For all other encounter rate clinics, payment shall be made at the lesser of:
      A) The clinic's approved all inclusive interim per encounter rate as of May 1, 1981;
      B) $50 per encounter; or
      C) The clinic's charge to the general public.

c) Federally Qualified Health Centers (FQHC)
   1) Medical Encounter Rate
      A) Payment for services rendered after March 31, 1990, shall be made at an individual, all inclusive, prospective per diem rate calculated on the basis of the Department's encounter rate methodology and audited provider fiscal information reported on the Medicaid Freestanding Federally-Funded Health Center Worksheet (Health Care Financing Administration Form 242), as supplemented by FQHC Medicaid supplemental Schedules A, B and C reflecting the actual costs of delivering encounter services as listed in Section 140.462(d)(2).
      B) All cost reports will be audited by the Department to determine allowable costs for rate setting. The provider will be advised of any adjustments resulting from these audits.
      C) New rates effective each July 1 will be based on certified cost information from the provider's most recently audited fiscal year.
      D) Allowable costs will be updated to the midpoint of the rate year by an inflation factor derived from published economic indices.
      E) Interim payment for covered services rendered by FQHCs enrolled as of March 31, 1990, for which no audited costs are available shall be made at the individual FQHC rate in

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

effect on March 31, 1990, as established by the Department.
      F) Interim payment for covered services rendered by FQHCs enrolled between March 31, 1990, and January 1, 1991, shall be made at the higher of:
         i) the provider's approved Medicare rate established by the designated federal intermediary for Rural Health Center or Federally Funded Health Center Services; or
         ii) the 75th percentile of the statewide range of the Department's established encounter clinic rates (as defined in subsection (a) of this Section above) as of March 31, 1990.
      G) Payment shall be made at the interim rate to FQHCs enrolled before January 1, 1991, for covered services rendered from the later of the date of enrollment or April 1, 1990, until the certified date of provider receipt of the cost-based rate established by the Department for that provider.
      H) When an individual cost-based rate has been established by the Department in accordance with the method described in subsection (c)(1)(A) of this Section above, the Department shall reconcile interim payments made for covered services.
         i) Rate retroactivity from April 1, 1990, will only apply to clinics enrolled as of March 31, 1990, which submit an application to the Public Health Service for Federally Qualified Health Center status by November 1, 1990, and are subsequently designated as federally qualified.
         ii) If the cost-based rate is higher than the interim rate, the Department shall pay the provider the rate differential for each claim paid at the interim rate.
         iii) If the cost-based rate is lower than the interim rate, the provider shall refund to the Department the rate differential for each claim paid at the interim rate, either by direct payment to the Department or as a credit applied against future service claims.
      I) Interim payment for covered services rendered by FQHCs enrolled on or after January 1, 1991, shall be made at the higher of:
         i) the provider's approved Medicare rate established by the designated federal intermediary for Rural Health Centers and Federally Funded Health Centers Services; or
         ii) the median of the statewide range of the Department's established cost-based FQHC rates in effect at the time of enrollment.
      J) Payment shall be made at the interim rate for Centers enrolled on or after January 1, 1991, for covered services rendered between the date of enrollment and 30 days after the date of Department receipt of the complete and correct

cost report of the provider. Payment for covered medical services rendered by the provider 30 days after Department receipt of the provider's complete and correct cost report will be made at the rate determined on the basis of the submitted cost report and the Department's FQHC rate methodology.

K) If the FQHC has not submitted the required audited fiscal information on the forms specified in subsection (c)(1)(A) of this Section within 90 days after the certified date of receipt of the forms, the Department shall suspend payment for covered medical services until the required information is received by the Department, unless the enrolled Center has been in operation less than one year and has no audited cost history.

L) Enrolled FQHCs which have been in operation less than one year and have no audited cost history must submit required audited fiscal information reflecting the first six months of operation on the forms specified in subsection (c)(1)(A) of this Section, within 90 days after the later of the end of the sixth month of operation or the certified mail date of receipt of the forms. The rate calculated from these costs will be in effect for services rendered on and after the first day of the month following the month of receipt of the required fiscal information by the Department.

M) The Department will not process a claim for payment of FQHC services rendered after June 30, 1990, that does not indicate all individual medical services delivered during the encounter, by procedure code.

2) Dental Encounter Rate

A) Payment for dental services rendered after March 31, 1990, shall be made at an individual, all inclusive, prospective per diem rate calculated on the basis of the Department's encounter rate methodology and audited provider fiscal information reported on the Medicaid Freestanding Federally-Funded Health Center Worksheet (Health Care Financing Administration Form 242), as supplemented by FQHC Medicaid Supplemental Schedules A, B, and C reflecting the actual costs of delivering dental services.

B) Direct costs related to operation of the clinic in order to provide allocable dental services will be reported on the cost report and used in the rate calculation process.

C) All cost reports will be audited by the Department to determine allowable costs for rate setting. The provider will be advised of any adjustments resulting from these audits.

D) New rates effective each July 1 will be based on certified cost information from the provider's most recently audited fiscal year.

E) Allowable costs will be updated to the mid point of the rate year by an inflation factor derived from published economic indices.

F) Payment for covered dental services shall be made by the Department's prepaid dental service contractor.

G) When an individual cost-based rate has been established by the Department in accordance with the method described in subsection (c)(2)(A) of this Section ~~above~~, the Department's prepaid dental service contractor shall reconcile interim payments made for covered dental services.

i) Rate retroactivity will only apply to clinics enrolled as of March 31, 1990, that submit an application to the Public Health Service for Federally Qualified Health Center status by November 1, 1990, and are subsequently designated as federally qualified.

ii) If the cost-based rate is higher than the interim rate, the Department's prepaid dental service contractor shall pay the provider the rate differential for each claim paid at the interim rate.

iii) If the cost-based rate is lower than the interim rate, the provider shall refund to the Department the rate differential for each claim paid at the interim rate.

H) Interim payment for covered dental services rendered by FQHCs enrolled on or after January 1, 1991, shall be made at the median of the statewide range of the Department's established cost-based FQHC dental rates in effect at the time of enrollment.

I) Payment shall be made at the interim rate for Centers enrolled on or after January 1, 1991, for covered dental services rendered between the date of enrollment and 30 days after the date of the Department receipt of the complete and correct cost report of the provider. Payment for covered dental services rendered by the provider after 30 days following Department receipt of the provider's complete and correct cost report will be made at the rate determined on the basis of the submitted cost report and the Department's FQHC rate.

J) If the FQHC has not submitted the required audited fiscal information on the forms specified in subsection (c)(2)(A) of this Section ~~above~~ within 90 days after the certified mail date of receipt of the forms, the Department's prepaid dental service contractor shall suspend payment for covered dental services until the required information is received by the Department, unless the enrolled Center has been in operation less than one year and has no audited cost history.

K) Enrolled FQHCs which have been in operation less than one year and have no audited cost history must submit required

audited fiscal information reflecting the first six months of operation on the forms specified in subsection (c)(2)(A) of this Section ~~above~~ within 90 days after the later of the end of the sixth month of operation or the certified date of receipt of the forms. The rate calculated from these costs will be in effect for dental services rendered on and after the first day of the month following the month of receipt of the required fiscal information by the Department.

3) Rate Appeals Process

A) All appeals of audit adjustments or rate determinations must be submitted in writing to the Department. Appeals submitted within 30 calendar days after the rate notification, if upheld, shall be made effective as of the beginning of the rate year. The effective date of all other upheld appeals shall be the first day of the month following the date the completed appeal was submitted. Appeals for any rate year must be filed before the close of the rate year.

B) To be accepted for review, the written appeal shall include:

i) The current approved reimbursement rate, allowable costs, and the additional reimbursable costs sought through the appeal;

ii) A clear, concise statement of the basis for the appeal;

iii) A detailed statement of financial, statistical, and related information in support of the appeal, indicating the relationship between the additional reimbursable costs as submitted and the circumstances creating the need for increased reimbursement;

iv) A citation to any mandated or contractual requirement pertinent to the appeal; and

v) A statement by the provider's chief executive officer or financial officer that the application of the rate appeal and information contained in the vendor's reports, schedules, budgets, books, and records submitted are true and accurate.

C) Rate appeals may be considered for the following reasons:

i) Mechanical or clerical errors committed by the provider in reporting historical expenses used in the calculation of allowable costs.

ii) Mechanical or clerical errors committed by the Department in auditing historical expenses as reported and/or in calculating reimbursement rates.

iii) The Department and the provider have entered into a written agreement to amend, alter, or modify substantive programmatic or management procedures attendant to the delivery of services, which have a substantial impact upon the costs of service delivery.

iv) Substantial treatment service charges are required as a result of mandated regulatory charges.

v) Substantial changes in the physical plant are required as a result of mandated licensure requirements. In such instances, the provider must submit a plan of corrections for capital improvements approved by the licensing authority, along with the required cost information.

vi) State and/or Federal regulatory requirements have generated a substantial increase in allowable costs.

D) The Department shall rule on all appeals within 120 calendar days after receipt of the appeal except that, if additional information is required from the facility, the period shall be extended until such time as the information is provided.

E) Appeals shall be submitted to the Department's Bureau of Comprehensive Health Services, 201 South Grand Avenue East, Concourse, Springfield, Illinois 62763.

d) Maternal and Child Health Clinics. Payment shall be made in accordance with Section 140.930.

e) Transitional Payments for FQHCs and Certain Encounter Rate Clinics

1) Certain clinics will be eligible to receive monthly transitional payments for managing the health care needs of certain clients under their care beginning December 1996. Certain clinics will be eligible to receive transitional payments for the month of December 1996, and monthly thereafter, under the conditions described in this subsection. To receive monthly transitional payments, clinics must:

A) be either:

i) a Federally Qualified Health Center, as defined in Section 140.462(d), or

ii) an Encounter Rate Clinic, as defined in Section 140.462(b), that has provided comprehensive health services to Medicaid clients prior to December 1996;

B) have a signed transitional payment contract with the Department; and

C) have a contract with a Health Maintenance Organization (HMO) or Prepaid Health Plan (PHP) that has a contract to provide comprehensive health services, or, upon the implementation of MediPlan Plus, have a contract with a Managed Care Entity (MCE). When MediPlan Plus is implemented, HMOs, PHPs or Managed Care Community Networks (MCCNs) may serve as MCEs (see 89 Ill. Adm. Code 142.110 for definition of terms).

2) Transitional payments to a clinic will consist of a per member per month payment for any Illinois Medicaid client enrolled with an HMO or PHP or, upon the implementation of MediPlan Plus, an MCE, for whom the clinic was their assigned care provider on the last day of the month.

3) For the first six months covered under a transitional payment

contract, the Department will make transitional payments for any number of Medicaid clients enrolled with an HMO, PHP or MCCN and assigned to the qualifying clinic as their primary care site. Thereafter, qualified clinics will receive transitional payments for a given month only if the total number of Medicaid clients enrolled with an HMO, PHP or MCCN and assigned to the qualifying clinic, meets or exceeds the following threshold levels established in the qualifying clinic's transitional payment contract for that month:

A) For the seventh through twelfth month, such threshold shall equal 20 percent of the qualifying clinic's Medicaid patient base;

B) For the thirteenth through eighteenth month, such threshold shall equal 30 percent of the qualifying clinic's Medicaid patient base;

C) For the nineteenth through twenty-fourth month, such threshold shall equal 40 percent of the qualifying clinic's Medicaid patient base;

D) For the twenty-fifth month through the term of the contract, such threshold shall equal 50 percent of the qualifying clinic's Medicaid patient base.

4) The Medicaid patient base shall be a number mutually agreed to by the Department and the qualifying clinic and established in the transitional payment contract that equals the number of Medicaid clients registered as patients of the qualifying clinic as of November 1996. If the qualifying clinic did not have Medicaid clients registered as patients as of November 1996, the mutually agreed to Medicaid patient base shall be the number of Medicaid clients registered as patients of the qualifying clinic as of the sixth month the qualifying clinic receives transitional payments under this Section.

5) Transitional payments shall equal:

A) eight dollars per member per month for the first 12-month period after the effective date of a clinic's contract with the Department;

B) six dollars per member per month for the second 12-month period after the effective date of a clinic's contract with the Department;

C) two dollars per member per month for the third 12-month period after the effective date of a clinic's contract with the Department.

6) Total transitional payments under subsection (e) shall not exceed:

A) $2,625,000 through June 30, 1997;

B) $4,500,000 for each 12-month period thereafter that begins on July 1 and ends on June 30 of the following year.

7) In the event that payments exceed the limits described in subsection (e)(6) of this Section above, the Department will

adjust future payments to clinics to recover any excess payment.

8) No clinic qualifying under subsection (e) of this Section shall receive transitional payments for any month after November 30, 1998. ~~No clinic qualifying under this subsection (e) shall receive transitional payments beyond the earlier of:~~

~~A) three years from the effective date of a clinic's signed contract; or~~

~~B) June 30, 2000.~~

f) Managed Care Adjustment Payments

1) Effective October 1, 1997, any FQHC or Rural Health Clinic (RHC) is eligible to receive Managed Care Adjustment Payments if:

A) a client is enrolled with a Health Maintenance Organization, a Managed Care Community Network, or a Prepaid Health Plan, and

B) the FQHC or RHC is the primary care site for such an enrolled client, as designated by the Department.

2) An FQHC or RHC shall receive $12 per member per month for each month in which the criteria described in subsection (f)(1) of this Section are met. However, the $12 per member per month shall be reduced by the amount of transitional payments, as described in subsection (e) of this Section, paid or due to a clinic for any month beginning October 1, 1997.

(Source: Amended by emergency rulemaking at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days)

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF REVOCATION UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987
BANC ILLINOIS MORTGAGE CORP.

Pursuant to Section 4-5(g) of the Residential Mortgage License Act of 1987 ("the Act"), 205 ILCS 635/4-5 (g) (1996), notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has revoked the license of Banc Illinois Mortgage Corp., a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective November 30, 1998.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF REVOCATION UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987
DIVERSIFIED RESIDENTIAL MORTGAGE SERVICES, LTD.

Pursuant to Section 4-5(g) of the Residential Mortgage License Act of 1987 ("the Act"), 205 ILCS 635/4-5 (g) (1996), notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has revoked the license of Diversified Residential Mortgage Services, Ltd., a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective November 30, 1998.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF REVOCATION UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987
MORTGAGE MAX FUNDING CORP.

Pursuant to Section 4-5(g) of the Residential Mortgage License Act of 1987 ("the Act"), 205 ILCS 635/4-5 (g) (1996), notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has revoked the license of Mortgage Max Funding Corp., Bensenville, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective November 30, 1998.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF REVOCATION UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987
PRIMESTAR FINANCIAL CORP

Pursuant to Section 4-5(g) of the Residential Mortgage License Act of 1987 ("the Act"), 205 ILCS 635/4-5 (g) (1996), notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has revoked the license of Primestar Financial Corp, Chicago, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective November 30, 1998.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF REVOCATION UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987
SAMBOY FINANCIAL, INC.

Pursuant to Section 4-5(g) of the Residential Mortgage License Act of 1987 ("the Act"), 205 ILCS 635/4-5 (g) (1996), notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has revoked the license of Samboy Financial, Inc., a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective November 30, 1998.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1. Statute requiring agency to publish information concerning Private Letter Rulings in the Illinois Register:

   Name of Act: Illinois Department of Revenue Sunshine Act
   Citation: 20 ILCS 2515/1

2. Summary of information:

   Index of Department of Revenue sales tax Private Letter Rulings and General Information Letters issued for the Third Quarter of 1998. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 86 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 86 Ill. Adm. Code 1200.120)

   The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

   Agents
   Agricultural Producers and Products
   Assessments
   Automobile Renting Tax
   Bingo
   Books and Records
   Bulk Sales
   C.O.A.D.
   Certificate of Registration
   Charitable Games
   Cigarette Tax
   Claims for Credit
   Coal Fueled Devices
   Coal Mining Equipment
   Coins & Precious Metals
   Computer Software
   Manufacturing Machinery & Equipment
   Medical Appliances
   Miscellaneous
   Motor Fuel Tax
   Motor Vehicles
   Newsprint & Ink
   Nexus
   Nonprofit Institutions
   Occasional Sale
   Oil Field Equipment
   Penalties
   Pollution Control Facilities
   Prepaid Sales Tax
   Products of Photoprocessing
   Property Tax
   Public Utility Taxes

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

Construction Contractors
Cooperative Associations
Delivery Charges
Distillation Machinery
Drug Tax Stamps
Drugs
Enterprise Zones
Exempt Organizations
Farm Machinery & Equipment
Federal Excise Tax
Financial Institutions
Food
Food, Drugs & Medical Appliances
Governmental Bodies
Graphic Arts
Gross Receipts
High Impact Business
Hotel Operators' Tax
Interest
Interstate Commerce
Itinerant Vendors
Invested Capital Tax
Leasing
Liquor Tax
Local Taxes
Mandatory Service Charges
Manufacturer's Purchase Credit
Manufacturers
Real Estate Transfer Tax
Repairs
Replacement Vehicle Tax
Request for Information
Returns
Rolling Stock Exemption
Sale at Retail
Sale for Resale
Sale of Service
Service Occupation Tax
Signature
Special Order
Statute of Limitations
Tax Collection
Tax Increment Financing
Tax Rate
Telecommunications Excise Tax
Temporary Storage
Tire User Fee
Trade-Ins
Use Tax
Vehicle Use Tax
Vendors

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of $1.00 per opinion plus $.50 per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.revenue.state.il.us/.

The annual index of Sales and Excise Tax letter rulings (all four quarters) is available for $3.00.

3. Name and address of person to contact concerning this information:

Margaret Forth
Legal Services Office
101 West Jefferson Street
Springfield, Illinois 62794
Telephone: (217) 782-6996

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1998 THIRD QUARTER SUNSHINE INDEX

AGRICULTURAL PRODUCERS AND PRODUCTS

ST 98-0006-PLR 07/24/1998 If grow tubes, bamboo stakes, trellises, earth anchors, pruners, gripples and posts are primarily (over 50% of the time) used in the production of grapes can qualify for the farm machinery and equipment exemption so long as all of the conditions set out at See 86 Ill. Adm. Code 130.305 are satisfied. (This is a PLR.)

AUTOMOBILE RENTING TAX

ST 98-0257-GIL 08/10/1998 Rentals of motor vehicles which are designed for pulling or carrying freight or cargo (pick-up or cargo type trucks) are not subject to Automobile Renting Occupation and Use Tax liability. See, 86 Ill. Admin. Code 180.101. (This is a GIL.)

ST 98-0272-GIL 08/12/1998 Persons who are engaged in the business of renting automobiles in Illinois under rental terms of one year or less are subject to the Automobile Renting Occupation and Use Tax set forth at 35 ILCS 155/1 et seq. (This is a GIL.)

BOOKS AND RECORDS

ST 98-0230-GIL 08/03/1998 Generally, taxpayers are required to maintain business books and records during any period for which the Illinois Department of Revenue is authorized to issue a Notice of Tax Liability (NTL). See 86 Ill. Adm. Code 130.815. (This is a GIL.)

CERTIFICATE OF REGISTRATION

ST 98-0284-GIL 08/14/1998 Businesses are required to obtain certificates of registration from the Department in order to lawfully sell tangible personal property at retail in this State. See 35 ILCS 120/2a. (This is a GIL.)

CIGARETTE TAX

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1998 THIRD QUARTER SUNSHINE INDEX

ST 98-0232-GIL 08/04/1998 Section 18b of the Cigarette Tax Act provides for a penalty of $15 for each package of unstamped cigarettes in excess of 100 packages found in the possession of anyone other than a licensed distributor. See, 35 ILCS 130/18b (This is a GIL.)

ST 98-0248-GIL 08/07/1998 Section 21(a) of the Cigarette Tax Act (35 ILCS 130/21(a) provides for the Department to auction cigarettes confiscated under the Act. (This is a GIL.)

ST 98-0310-GIL 09/25/1998 The Cigarette Tax Act imposes a tax upon retailers of cigarettes in this State and must be prepaid or precollected by the distributor of the cigarettes. See, 86 Ill. Admin. Code 440.10 - 440.230. (This is a GIL.)

COAL MINING EQUIPMENT

ST 98-0237-GIL 08/04/1998 A purchaser of equipment that qualifies for the coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment exemption must complete the certification that contains the items of information required by 86 Ill. Adm. Code 130.350(f)(1). (This is a GIL.)

COMPUTER SOFTWARE

ST 98-0011-PLR 08/07/1998 A license of software is nontaxable if it meets the criteria established at 86 Ill. Adm. Code 130.1935 (a)(1)(A-E)(This is a PLR).

ST 98-0251-GIL 08/07/1998 Custom computer programs are not subject to tax. See 86 Ill. Adm. Code 130.1935 (This is a GIL.)

ST 98-0276-GIL 08/13/1998 Sales of canned computer software are generally subject to Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.1935. (This is a GIL.)

CONSTRUCTION CONTRACTORS

ST 98-0227-GIL 08/03/1998 Construction contractors who physically

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1998 THIRD QUARTER SUNSHINE INDEX

incorporate tangible personal property into real estate owned by holders of "E" numbers can purchase such property tax-free by providing their suppliers with the certification described in Section 130.2075 (D)(4), as well as the "E" number of the group into whose real estate that property will be incorporated. (This is a GIL.)

ST 98-0242-GIL 08/05/1998 Persons who permanently affix tangible personal property to real estate act as construction contractors and incur Use Tax liability on their cost price of tangible personal property they physically incorporate into realty. See 86 Ill. Adm. Code 130.1940. (This is a GIL.)

ST 98-0252-GIL 08/07/1998 Persons who permanently affix tangible personal property to real estate, thereby making improvements to real estate, are considered to be construction contractors. In Illinois, construction contractors are deemed to be the users of the items that they permanently affix to realty and owe Use Tax on the cost price of the tangible personal property that they so affix to real estate. See 86 Ill. Adm. Code 130.2075. (This is a GIL.)

ST 98-0255-GIL 08/10/1998 Persons who permanently affix tangible personal property to real estate act as construction contractors and incur Use Tax liability on their cost price of tangible personal property they physically incorporate into realty. See 86 Ill. Adm. Code 130.1940. (This is a GIL.)

ST 98-0274-GIL 08/13/1998 Persons who permanently incorporate tangible personal property into real property are considered construction contractors for Retailers' Occupation Tax purposes. See 86 Ill. Adm. Code 130.1940. (This is a GIL.)

DELIVERY CHARGES

ST 98-0012-PLR 08/07/1998 In general, shipping or delivery charges are includable in the gross receipts subject to tax unless the buyer and seller agree upon such charges separately from the selling price of the tangible personal property which is sold. In addition, such

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1998 THIRD QUARTER SUNSHINE INDEX

charges must be reflective of the costs of shipping and delivery. To the extent that these charges exceed the costs of shipping, they are subject to tax. See 86 Ill. Adm. Code 130.415, enclosed. (This is a PLR.)

ST 98-0288-GIL 08/17/1998 Whether shipping and handling or delivery charges must be included in the Retailers' Occupation Tax base depends upon whether such charges are included in the selling price of property or are contracted for separately by purchasers and retailers. See, 86 Ill. Admin. Code 130.415. (This is a GIL.)

EXEMPT ORGANIZATIONS

ST 98-0013-PLR 08/21/1998 Organizations that make application to the Department and are determined to be exclusively religious, educational, or charitable, receive an exemption identification "E" number. See 86 Ill. Adm. Code 130.2007. (This is a PLR.)

ST 98-0302-GIL 09/01/1998 Organizations that have been issued a "E" numbers documenting their status as sales tax exempt purchasers may engage in sales to members, noncompetitive sales, and certain occasional dinners and similar activities (two fundraisers a year) without incurring Retailers' Occupation Tax liability. See, 86 Ill. Admin. Code 130.2005. (This is a GIL.)

FARM MACHINERY & EQUIPMENT

ST 98-0233-GIL 08/04/1998 Machinery and equipment that is used primarily (over 50% of the time) in production agriculture or for use in State or Federal agricultural programs may be purchased free from tax under the farm machinery and equipment exemption. See 86 Ill. Adm. Code 130.305. (This is a GIL.)

ST 98-0306-GIL 09/03/1998 It has been the long standing position of the Department that ATVs do not qualify for the Farm Machinery & Equipment exemption from sales tax. See

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1998 THIRD QUARTER SUNSHINE INDEX

86 Ill. Adm. Code 130.305. (This is a GIL.)

FOOD

ST 98-0007-PLR 07/29/1998 The appropriate rate of tax for food items sold is determined by the character of the retailers' establishment as well as the nature of the sales See, 86 Ill. Admin. Code 130.310. (This is a PLR.)

ST 98-0264-GIL 08/11/1998 With respect to food for human consumption which is to be consumed off the premises where it is sold, Retailers' Occupation Tax is imposed at the rate of 1%. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

ST 98-0295-GIL 08/26/1998 Food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food which has been prepared for immediate consumption) is taxed at a lower State rate of 1% plus any applicable local taxes. See, 86 Ill. Admin. Code 130.310. (This is a GIL.)

FOOD, DRUGS & MEDICAL APPLIANCES

ST 98-0229-GIL 08/03/1998 For purposes of the reduced State rate of tax applicable to foods, medicines and medical appliances, a medicine or drug is defined as any pill, powder, potion, salve, or other preparation intended by the manufacturer for human use and that purports on the label to have medicinal qualities. Medicines and drugs are subject to a low State tax rate of 1% plus applicable local taxes. See Section 130.310. (This is a GIL.)

ST 98-0240-GIL 08/05/1998 Items such as vitamins or dietary supplements may be considered foods and may be taxed at either the high or low rate depending upon the nature of the establishment selling the vitamins. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

ST 98-0249-GIL 08/07/1998 With respect to food for human

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1998 THIRD QUARTER SUNSHINE INDEX

consumption which is to be consumed off the premises where it is sold, Retailers' Occupation Tax is imposed at the rate of 1%. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

ST 98-0265-GIL 08/11/1998 Items such as cough syrup and diaper rash ointment will qualify for the low rate of tax if they fall within the definition of a "medicine" or "drug." See 86 Ill. Adm. Code 130.310(c)(1). (This is a GIL.)

ST 98-0266-GIL 08/11/1998 "A medicine or drug is any pill, powder, potion, salve, or other preparation intended by the manufacturer for human use and which purports on the label to have medicinal qualities." See 86 Ill. Adm. Code 130.310. (This is a GIL.)

ST 98-0279-GIL 08/14/1998 Incontinence pads for adults qualify for the low 1% State rate of tax. See 86 Ill. Adm. Code 130.310(c)(3). (This is a GIL.)

ST 98-0281-GIL 08/14/1998 Medicines and medical appliances are not taxed at the normal rate of 6.25%. These items are taxed at a lower rate of 1% plus any applicable local taxes. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

ST 98-0283-GIL 08/14/1998 With respect to food for human consumption which is to be consumed off the premises where it is sold, Retailers' Occupation Tax is imposed at the State rate of 1%. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

GAS REVENUE TAX

ST 98-0008-PLR 07/30/1998 This letter rules on several issues regarding whether certain sales of natural gas are in interstate commerce and, thus, not subject to tax under the Gas Revenue Tax Act. See 35 ILCS 615/1 et seq. (This is a PLR.)

ST 98-0009-PLR 08/06/1998 This letter rules on questions regarding application of the Gas Revenue Tax to transactions in interstate commerce and transactions involving customers who acquired contractual rights for the direct purchase of gas or gas services originating

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1998 THIRD QUARTER SUNSHINE INDEX

from an out-of-state supplier or source on or before March 1, 1995. See 35 ILCS 615/1 et seq. (This is a PLR.)

ST 98-0010-PLR 08/06/1998 This letter rules on questions regarding application of the Gas Revenue Tax to transactions in interstate commerce and transactions involving customers who acquired contractual rights for the direct purchase of gas or gas services originating from an out-of-state supplier or source on or before March 1, 1995. See 35 ILCS 615/1 et seq. (This is a PLR.)

ST 98-0256-GIL 08/10/1998 This letter describes issues related to the exemptions from state and local gas revenue taxes for certified businesses located in enterprise zones. See 220 ILCS 5/9-222 and 65 ILS 5/8-11-2. (This is a GIL.)

ST 98-0287-GIL 08/14/1998 In Illinois the Gas Revenue Tax is imposed upon persons engaged in the business of distributing, supplying, furnishing, or selling natural gas to persons for use or consumption and not for resale. See 86 Ill. Adm. Code 470.110. (This is a GIL.)

GROSS RECEIPTS

ST 98-0214-GIL 07/23/1998 Retailers or other persons issuing give-away coupons, as donors, incur Use Tax liability on their cost price of the tangible personal property actually transferred as a result of the coupons. See 86 Ill. Adm. Code 130.2125(c). (This is a GIL.)

ST 98-0216-GIL 07/23/1998 If a retailer accepts a coupon for which he will receive full or partial reimbursement, the value of that reimbursement must be included in the retailer's "gross receipts" that are subject to Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.2125 (This is a GIL.)

ST 98-0219-GIL 07/22/1998 A manufacturer's rebate that is applied to the purchase price of an automobile is generally part of the gross receipts subject to Retailers' Occupation Tax. See, 86 Ill. Admin. Code 130.101.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1998 THIRD QUARTER SUNSHINE INDEX

(This is a GIL.)

HOTEL OPERATORS' TAX

ST 98-0254-GIL 08/10/1998 A hotel operator incurs Hotel Operators' Occupation Tax on room rentals to entities that would be exempt from sales tax (i.e. entities such as exclusively charitable, religious, or educational groups, or governmental bodies that possess exemption identification numbers from the Department). See 86 Ill. Adm. Code 480.101. (This is a GIL.)

ST 98-0258-GIL 08/10/1998 In-room movies provided by hotel operators constitute "services" or "accommodations accompanying the use and possession of the room" that are subject to Hotel Operators' Occupation Tax. See, 86 Ill. Admin. Code 480.101. (This is a GIL.)

ST 98-0262-GIL 08/11/1998 This letter discusses the exemption available by reason of federal treaty for Hotel Operators' Occupation Tax when rooms are rented to foreign diplomats. See generally, 86 Ill. Adm. Code 480.101. (This is a GIL.)

LEASING

ST 98-0005-PLR 07/24/1998 True leases either have no buy out provisions at the close of the lease term or, if buy out provisions do exist, they must be fair market value buy out options in order to maintain the character of the true leases. See, 86 Ill. Admin. Code 130.2010. (This is a PLR.)

ST 98-0222-GIL 07/27/1998 Lessors of tangible personal property under true leases in Illinois, are deemed end users of the property to be leased. See 86 Ill. Adm. Code 130.220. (This is a GIL.)

ST 98-0277-GIL 08/14/1998 Lessors of tangible personal property under true leases in Illinois, are deemed end users of the property and incur a Use Tax liability on their cost price of the items to be leased. See 86 Ill. Adm. Code 130.220. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1998 THIRD QUARTER SUNSHINE INDEX

ST 98-0280-GIL 08/14/1998 Lessors of tangible personal property under true leases in Illinois, are deemed end users of the property to be leased. See 86 Ill. Adm. Code 130.220. (This is a GIL.)

ST 98-0290-GIL 08/18/1998 In Illinois, lessors of tangible personal property under a true lease, except for automobiles leased for terms of one year or less, are considered to be the end users of the property to be leased. See 86 Ill. Adm. Code 130.220 and 130.2010. (This is a GIL.)

ST 98-0300-GIL 08/31/1998 Lessors of tangible personal property under true leases in Illinois, are deemed end users of the property to be leased. See 86 Ill. Adm. Code 130.220. (This is a GIL.)

ST 98-0305-GIL 09/03/1998 Lessors of tangible personal property under true leases in Illinois are deemed end users of the leased property. See 86 Ill. Adm. Code 130.2010. (This is a GIL.)

ST 98-0309-GIL 09/09/1998 Lease agreements that contain purchase options that are equal to the fair market value of the tangible personal property at the end of the lease term are considered true leases, and the lessors incur Use Tax liability on their cost price of tangible personal property purchased for rental purposes. See 86 Ill. Adm. Code 130.2010. (This is a GIL.)

LIQUOR TAX

ST 98-0307-GIL 09/04/1998 The Liquor Control Act of 1934 imposes a tax upon the privilege of engaging in business as a manufacturer or as an importing distributor of alcoholic liquor. See 235 ILCS 5/8-1 et seq. (1996 State Bar Edition). (This is a GIL.)

LOCAL TAXES

ST 98-0209-GIL 07/01/1998 If a purchase order is accepted in a jurisdiction that imposes a local tax, that local tax will be incurred. See 86 Ill. Adm. Code 270.115(b).

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1998 THIRD QUARTER SUNSHINE INDEX

(This is a GIL.)

ST 98-0263-GIL 08/11/1998 It is the Department's position that the most important element in selling is the acceptance of the purchase order. Consequently, the location at which purchase orders are accepted is deemed to be the seller's location for purposes of determining jurisdiction for local occupation taxes. See 86 Ill. Adm. Code 270.115. (This is a GIL.)

ST 98-0268-GIL 08/12/1998 The most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local Retailers' Occupation Tax, that tax will be incurred. See 86 Ill. Adm. Code 270.115. (This is a GIL.)

MANUFACTURING MACHINERY & EQUIPMENT

ST 98-0014-PLR 09/08/1998 When determining whether a piece of equipment qualifies for the manufacturing machinery and equipment exemption, the requirements of 86 Ill. Adm. Code 130.330 must be met. (This is a PLR.)

MEDICAL APPLIANCES

ST 98-0234-GIL 08/04/1998 Medicines and medical appliances are not taxed at the normal rate of 6.25%. These items are taxed at a lower State rate of 1%. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

ST 98-0243-GIL 08/05/1998 A reduced State tax rate of 1% is applied to medicines and medical appliances. A medical appliance is defined as an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

MISCELLANEOUS

ST 98-0210-GIL 07/06/1998 Review of general statement of current law concerning coal mining for a coal mining publication. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1998 THIRD QUARTER SUNSHINE INDEX

ST 98-0228-GIL 08/03/1998 This letter discusses taxation of purchases of printing paper by Illinois printer customers. See 86 Ill. Adm. Code Sections 130.1405 and 130.2105. (This is a GIL.)

ST 98-0246-GIL 08/06/1998 The Telecommunications Municipal Infrastructure Maintenance Fee Act provides that "[g]ross charges' shall not include:...charges to business enterprises certified under Section 9-222.1 of the Public Utilities Act to the extent of such exemption and during the period of time specified by the Department of Commerce and Community Affairs or by the municipality imposing the fee under the Act...." (35 ILCS 635/10(a)(5)) (This is a GIL.)

ST 98-0247-GIL 08/06/1998 This letter responds to an annual survey. See 86 Ill. Adm. Code 130.101. (This is a GIL.)

ST 98-0270-GIL 08/12/1998 Effective January 1, 1998, P.A. 90-502 imposed a tax on the use of a dry-cleaning solvent by persons who operate dry cleaning facilities in Illinois. (This is a GIL.)

ST 98-0278-GIL 08/14/1998 This letter discusses Service Occupation Tax and other issues. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

ST 98-0285-GIL 08/14/1998 This letter discusses applications of the Electricity Excise Tax Law (see 35 ILCS 640/2-4) and the Gas Revenue Tax (see 86 Ill. Adm. Code 470.155 and also Attorney General Opinion 95-001). (This is a GIL.)

MOTOR FUEL TAX

ST 98-0304-GIL 09/03/1998 Department regulations found at 86 Ill. Adm. Code 500.210 detail the manner in which tax-free sales of motor fuel by licensed distributors and suppliers must be documented. (This is a GIL.)

NEXUS

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1998 THIRD QUARTER SUNSHINE INDEX

ST 98-0208-GIL 07/01/1998 This letter discusses the issue of nexus. See Quill v. North Dakota, 112 S. Ct. 1902 (1992). (This is a GIL.)

ST 98-0225-GIL 07/29/1998 A "retailer maintaining a place of business in Illinois" is required to register with the State as an Illinois Use Tax collector. See 86 Ill. Adm. Code 150.201 and 150.801. (This is a GIL.)

ST 98-0231-GIL 08/04/1998 This letter discusses nexus. See 86 Ill. Adm. Code Sections 150.201 and 150.801. See also Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992). (This is a GIL.)

ST 98-0236-GIL 08/04/1998 An out-of-State retailer falling under the definition of a "retailer maintaining a place of business in this State is required to register with the State as an Illinois Use Tax collector. See 86 Ill. Adm. Code 150.801. (This is a GIL.)

POLLUTION CONTROL FACILITIES

ST 98-0303-GIL 09/01/1998 Equipment which is used for the primary purpose of reducing or eliminating pollution can qualify for the Pollution Control Facilities exemption. Equipment which is used primarily for a purpose other reducing or eliminating pollution cannot quality for the exemption. See 86 Ill. Adm. Code 130.335. (This is a GIL.)

PUBLIC UTILITY TAXES

ST 98-0217-GIL 07/23/1998 Municipalities and electric cooperatives will determine the appropriate electricity excise tax rate to be applied to each purchaser based upon Section 2-4(b) of the Electricity Excise Tax Law. See 35 ILCS 640/2-4. (This is a GIL.)

ST 98-0218-GIL 07/21/1998 The Electricity Excise Tax Law becomes effective August 1, 1998, and the tax rate is based upon the type of supplier from which the customer receives the electricity. See, 35 ILCS 640/1 et seq. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1998 THIRD QUARTER SUNSHINE INDEX

ST 98-0238-GIL 08/04/1998 The Energy Assistance Charge is a charge collected by each public utility, electric cooperative, as defined in Section 3.4 of the Electric Supplier Act, and municipal utility, as referenced in Section 3-105 of the Public Utilities Act, that is engaged in the delivery of electricity or the distribution of natural gas within the State of Illinois upon each of its customer accounts. See 305 ILCS 20/13. The Renewable Energy Resources and Coal Technology Development Assistance Charge is a charge collected by electric and gas utilities, whether owned by investors, municipalities or cooperatives, and alternative retail electric suppliers upon each of its customer accounts. See Section 6-5 of Article 6 of Public Act 90-561. (This is a GIL.)

ST 98-0267-GIL 08/11/1998 Because the incidence of the Electricity Excise Tax is on the consumers of electricity, sales to the federal government are not taxable under the Electricity Excise Tax Law by virtue of the Supremacy clause of the United States Constitution. See, 35 ILCS 640/1 et seq. (This is a GIL.)

REQUEST FOR INFORMATION

ST 98-0291-GIL 08/19/1998 This letter requested sales and use tax information. (This is a GIL.)

SALE AT RETAIL

ST 98-0211-GIL 07/07/1998 The Retailers' Occupation Tax Act imposes a tax upon persons engaged in the business of selling tangible personal property at retail. 35 ILCS 120/2 (1996 State Bar Edition). (This is a GIL.)

ST 98-0297-GIL 08/28/1998 The Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption at the rate of 6.25%. See 86 Ill. Adm. Code 130.101. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1998 THIRD QUARTER SUNSHINE INDEX

ST 98-0298-GIL 08/31/1998 Illinois Retailers' Occupation Tax and Use Tax are imposed only upon gross receipts from retail sales of tangible personal property. See 86 Ill. Adm. Code 130.101. (This is a GIL.)

SALE FOR RESALE

ST 98-0212-GIL 07/09/1998 The sale of containers is not subject to Retailers' Occupation Tax or Use Tax liability when the purchasers of such containers transfer to customers the ownership of the containers together with what is contained in them. See, 86 Ill. Adm. Code 130.2070. (This is a GIL.)

ST 98-0220-GIL 07/24/1998 Charcoal purchased by food vendors who use it in preparing food for sale cannot be purchased for resale. See 86 Ill. Adm. Code 130.2070(b)(3). (This is a GIL.)

ST 98-0221-GIL 07/24/1998 This letter provides information regarding sales of nonreusable tangible personal property that is transferred by food and beverage vendors to their customers as part of the sale of food or beverages. See 86 Ill. Adm. Code 130.2070. (This is a GIL.)

ST 98-0224-GIL 07/27/1998 To purchase items of tangible personal property tax free for the purpose of resale, purchasers must submit properly completed Certificates of Resale to sellers. See 86 Ill. Adm. Code 130.1405. (This is a GIL.)

ST 98-0226-GIL 07/31/1998 The sale of containers is not subject to Retailers' Occupation Tax when the purchasers of such containers transfer to customers the ownership of the containers together with what is contained in them. Therefore, in general, purchases of twine and plastic wrap are nontaxable as long as they are purchased and used to bind bales of hay that are sold. See 86 Ill

ST 98-0235-GIL 08/04/1998 In order to document the fact that their sales to purchasers are sales for resale, companies are obligated to obtain valid Certificates of Resale from purchasers. See 86 Ill. Adm. Code 130.1405. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1998 THIRD QUARTER SUNSHINE INDEX

ST 98-0250-GIL 08/07/1998 Restaurants which purchase containers or utensils that will be transferred to customers as part of the sale of food or beverages can purchase those items tax-free with a Certificate of Resale. See, 86 Ill. Admin. Code 130.2070. (This is a GIL.)

ST 98-0253-GIL 08/07/1998 This letter sets out how standard drop shipments are treated in Illinois for Retailers' Occupation Tax and Use Tax purposes. See, 86 Ill. Admin. Code 130.1405. (This is a GIL.)

ST 98-0259-GIL 08/10/1998 In order to document that transactions are sales for resale, retailers should obtain Certificates of Resale from their customers that contain the information required by 86 Ill. Adm. Code 130.1405. (This is a GIL.)

ST 98-0260-GIL 08/10/1998 Certificates of resale must contain the information set out in 86 Ill. Adm. Code 130.1405(b). (This is a GIL.)

ST 98-0271-GIL 08/12/1998 Persons purchasing tangible personal property in Illinois for resale, and not for use or consumption, must provide sellers with Certificates of Resale. See 86 Ill. Adm. Code 130.1405. (This is a GIL.)

ST 98-0293-GIL 08/25/1998 In order to document sales for resale, sellers are obligated to obtain valid Certificates of Resale from purchasers. See 86 Ill. Adm. Code 130.1405. (This is a GIL.)

ST 98-0301-GIL 08/31/1998 In order to document that transactions are sales for resale, sellers should obtain Certificates of Resale from their customers that contain the information required by 86 Ill. Adm. Code 130.1405. (This is a GIL.)

SALE OF SERVICE

ST 98-0215-GIL 07/23/1998 When an advertising agency transfers tangible personal property in conjunction with its provision of advertising services, it is subject to liability under the Service Occupation Tax Act. See

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1998 THIRD QUARTER SUNSHINE INDEX

35 ILCS 115/1 et seq.. (This is a GIL.)

ST 98-0244-GIL 08/05/1998 This letter discusses the tax consequences of various sales of service. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

ST 98-0261-GIL 08/10/1998 Sales of service in which tangible personal property is transferred incident to such sales, are subject to tax under the Service Occupation Tax Act. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

SERVICE OCCUPATION TAX

ST 98-0239-GIL 08/05/1998 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

ST 98-0241-GIL 08/05/1998 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred as an incident to sales of service. See 86 Ill. Adm. Code 140.101. (This is a GIL.)

ST 98-0245-GIL 08/05/1998 Under the Service Occupation Tax Act, the purchase of tangible personal property that is transferred to service customers may result in either Service Occupation Tax liability or Use Tax liability for the servicemen. See, 86 Ill. Admin. Code 140.101. (This is a GIL.)

ST 98-0289-GIL 08/17/1998 Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Cod 140.101. (This is a GIL.)

TELECOMMUNICATIONS EXCISE TAX

ST 98-0269-GIL 08/12/1998 Entities that are exempt from the Telecommunications Excise Tax include Federal and State governments, State universities created by statute, as well as sales between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries. 35 ILCS 630/2(k)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1998 THIRD QUARTER SUNSHINE INDEX

(1996 State Bar Edition). (This is a GIL.)

ST 98-0282-GIL 08/14/1998 This letter discusses state and local telecommunications taxes and tax treatment of prepaid telephone calling cards under the Telecommunications Excise Tax. See 35 ILCS 630/1 et seq. and 86 Ill. Adm. Code Part 495. (This is a GIL.)

ST 98-0286-GIL 08/14/1998 The Telecommunications Excise Tax Act imposes a tax on the act or privilege of originating or receiving intrastate or interstate telecommunications by persons in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers by such persons, 35 ILCS 630/3 and 4. (This is a GIL.)

ST 98-0292-GIL 08/21/1998 The Telecommunications Excise Tax Act imposes a tax on the act or privilege of originating or receiving intrastate or interstate telecommunications by persons in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers by such persons, 35 ILCS 630/3 and 4. (This is a GIL.)

ST 98-0294-GIL 08/25/1998 In general, computer-to-computer communication services that involve value-added services, such as electronic mail, do not fall within the definition of telecommunications and are specifically excluded from the Telecommunications Excise Tax. See 86 Ill. Adm. Code 495.100. (This is a GIL.)

ST 98-0296-GIL 08/26/1998 The Telecommunications Excise Tax Act imposes a tax on the act or privilege of originating or receiving intrastate or interstate telecommunications by persons in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers by such persons, 35 ILCS 630/3 and 4. (This is a GIL.)

ST 98-0299-GIL 08/31/1998 The Telecommunications Excise Tax is imposed upon the act or privilege of originating or

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1998 THIRD QUARTER SUNSHINE INDEX

receiving intrastate or interstate telecommunications by a person in this State at the rate of 7% of the gross charges purchased at retail from a retailer by such a person. See 35 ILCS 630/3 and 630/4. (This is a GIL.)

TRADE-INS

ST 98-0213-GIL 07/09/1998 An item taken in trade must be of like kind and character as that which is being sold. See, 86 Ill. Adm. Code 130.425. (This is a GIL.)

ST 98-0223-GIL 07/27/1998 In order to properly take a trade-in deduction, the item being traded-in must be of like kind and character as that which is being sold. See, 86 Ill. Adm. Code 130.425. (This is a GIL.)

USE TAX

ST 98-0004-PLR 07/07/1998 A person who purchases tangible personal property for the purpose of gifting it makes a taxable use of the property and incurs Use Tax upon such purchase. See 86 Ill. Adm. code 150.305(c). (This is a PLR.)

ST 98-0273-GIL 08/12/1998 Out-of-State sellers who fall under the definition of a "retailer maintaining a place of business in this State" (see 86 Ill. Adm. Code Sec. 150.201(i), enclosed), must register to collect Illinois Use Tax from Illinois customers and remit that tax to the Department. 86 Ill. Adm. Code 130.801(c). (This is a GIL.)

VEHICLE USE TAX

ST 98-0308-GIL 09/04/1998 Under the Vehicle Use Tax, the tax rate is $15 when the motor vehicle is acquired as a gift to a beneficiary in the administration of an estate and the beneficiary is not a surviving spouse. See 625 ILCS 5/3-1001. (This is a GIL.)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of December 1, 1998 through December 7, 1998 and have been scheduled for review by the Committee at its December 15, 1998 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
1/14/99	Department of Nuclear Safety, Radiation Inspectors and Inspections (32 Ill Adm Code 410)	10/16/98 22 Ill Reg 18214	12/15/98
1/16/99	Secretary of State, Literacy Grant Program (23 Ill Adm Code 3040)	9/25/98 22 Ill Reg 16972	12/15/98
1/16/99	Secretary of State, Literacy Grant Program (23 Ill Adm Code 3040)	10/2/98 22 Ill Reg 17311	12/15/98
1/17/99	Pollution Control Board, Proportionate Share Liability (35 Ill Adm Code 741)	9/18/98 22 Ill Reg 16425	12/15/98
1/14/99	Department of Human Services, Repeal of Americans with Disabilities Act Grievance Procedure (4 Ill Adm Code 500)	10/2/98 22 Ill Reg 17193	1/12/99
1/14/99	Department of Human Services, Repeal of Americans with Disabilities Act Grievance Procedure (4 Ill Adm Code 300)	10/2/98 22 Ill Reg 17187	1/12/99
1/14/99	Department of Insurance, Subordinated Indebtedness (50 Ill Adm Code 201)	8/7/98 22 Ill Reg 14397	1/12/99
1/14/99	Department of Insurance, Accumulation of Guaranty Fund or Guaranty Capital - Reporting and Accounting of Such Indebtedness (50 Ill Adm Code 301)	8/14/98 22 Ill Reg 14593	1/12/99

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

1/16/98	Department of Professional Regulation, Illinois Occupational Therapy Practice Act (68 Ill Adm Code 1315)	10/16/98 22 Ill Reg 18820	1/12/99
1/17/99	Department of Natural Resources, Repeal of Safety Regulations Relative to Mixing, Handling, Transportation, Storage and Use of Blasting Agents and Nitro-Carbo-Nitrates (62 Ill Adm Code 120)	10/16/98 22 Ill Reg 18199	1/12/99
1/20/99	Health Facilities Planning Board, Health Facilities Planning Procedural Rules (77 Ill Adm Code 1130)	4/17/98 22 Ill Reg 6834	1/12/99
1/20/99	Health Facilities Planning Board, Narrative and Planning Policies (77 Ill Adm Code 1100)	5/29/98 22 Ill Reg 9134	1/12/99
1/20/99	Health Facilities Planning Board, Processing, Classification Policies and Review Criteria (77 Ill Adm Code 1110)	5/29/98 22 Ill Reg 9163	1/12/99

Rules acted upon during the period from October 16 (Issue 42, 1998) through December 28, 1998 (Issue 52) are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 4401 published in Issue 40 will be listed as 50-4401-40. The letter "R" designates a rule that is being repealed. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jnatale@ecgate.sos.state.il.us (Internet address).

ILLINOIS REGISTER
ADMINISTRATIVE CODE ORDER FORM

PLEASE USE THIS FORM FOR ALL ORDERS OR TO NOTIFY US OF A CHANGE OF ADDRESS. ALL ORDERS MUST BE PAID IN ADVANCE BY CHECK, MONEY ORDER, VISA, MASTER CARD OR DISCOVER CARD. CHECKS AND MONEY ORDERS MUST BE PAYABLE TO THE "SECRETARY OF STATE".

MICROFICHE SETS OF THE ILLINOIS REGISTER @$200.00 PER SET.
__1977-1978__1979__1980__1981__1982__1983__1984__1985__1986
__1987__1988__1989__1990__1991__1992__1993__1994__1995__1996

CUMULATIVE INDICES TO THE ILLINOIS REGISTER @$1.00 EACH.
__1981__1982__1983__1984__1985__1986__1987__1988__1989

SECTIONS AFFECTED INDICES TO THE ILLINOIS REGISTER @$1.00 EACH.
__1984__1985__1986__1987__1988__1989

CUMULATIVE/SECTIONS AFFECTED INDICES @$5.00 EACH.
__1990__1991__1992__1993__1994__1995__1996

BACK ISSUES OF THE ILLINOIS REGISTER (CURRENT YEAR ONLY) @$10.00 EACH._____ _____ _____
(VOLUME #) (ISSUE #) (ISSUE DATE)

ANNUAL SUBSCRIPTION TO THE ILLINOIS REGISTER @$290.00 (52 ISSUES)
____NEW ___RENEWAL

ANNUAL SUBSCRIPTION TO THE ILLINOIS ADMINISTRATIVE CODE ON CD-ROM; COMPLETELY UPDATED EDITION PUBLISHED QUARTERLY @$290.00 FOR 4 QUARTERLY EDITIONS

TOTAL AMOUNT OF ORDER: $_____
__CHECK __VISA __MC __DISCOVER CARD#:_____

EXPIRATION DATE:_____ SIGNATURE:_____
(IF CHANGE OF ADDRESS, PLEASE LIST BOTH THE OLD AND NEW ADDRESS:

_____
(NAME, PLEASE TYPE OR PRINT)

_____
(ADDRESS)

_____
(CITY, STATE, ZIP CODE AND TELEPHONE #)

MAIL TO: **OR FAX: (217) 854-0308**

GEORGE H. RYAN
SECRETARY OF STATE
INDEX DEPARTMENT
111 E. MONROE
SPRINGFIELD, IL 62756